रजिस्टर्ड सं॰ डी॰ एल-33004/97 REGISTERED No. DL-33004/97

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 28] नई दिल्ली, शुक्रवार, जुलाई 25, 1997 / श्रावण 3, 1919
No. 28] NEW DELHI, FRIDAY, JULY 25, 1997 / SHRAVANA 3, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 25th July, 97.

BILL No. 56 OF 1997

A Bill further to amend the Forest Conservation Act, 1980.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Forest (Conservation) Amendment Act, 1997.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment of section 2.

69 of 1980.

2. In the Forest Conservation Act, 1980, in section 2, after clause *(ii)*, the following proviso shall be inserted, namely:—

"Provided that no such prior approval of the Central Government shall be necessary for the construction of bridges or water storage tanks on any forest land or any portion thereof in the districts of Hazaribagh, Ranchi and Singhbhum in the State of Bihar.".

STATEMENT OF OBJECTS AND REASONS

Tribal people residing in the districts of Hazaribagh, Ranchi and Singhbhum in the State of Bihar are dependent on forest for their livelihood. The development of the area must not stop under the Forest Conservation Act, 1980. With a view to making sustainable use of the forest land or any portion thereof for the purpose of development and for the benefit of tribal people, the proposed amendment is necessary.

The Bill seeks to achieve the above objective.

NEW DELHI;
February, 24, 1997.

MAHABIR LAL VISWAKARMA

BILL No. 54 OF 1997

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1997.

Amendment of article 217.

2. In article 217 of the Constitution, in clause (2),—

(*i*) after sub-clause (b), the following sub-clause shall be inserted, namely:—

"(c) has for at least ten years been a member of the Indian Legal Service.";

(*ii*) in the *Explanation*, after part (*b*), the following part shall be inserted, namely:—

"(c) in computing the period during which a person has been a member of the Indian Legal Service, there shall be included any period during which the person has been an advocate of a High Court or has held any post under the Union or a State requiring special knowledge of law after he became a member of the Indian Legal Service.".

STATEMENT OF OBJECTS AND REASONS

The Indian Legal Service is an established service in the Union Government which consists of persons specialised in law who give advice on legal and constitutional issues, draft Bills to be introduced in Parliament and also draft subordinate legislation under Acts of Parliament. The members of the service also conduct cases in the courts of law whenever they are required to do so.

The nature of work of the members of the Indian Legal Service is similar to that of an advocate and the legal draftsmanship provides them very good experience and exposure to the law. Further more, the members of the Indian Legal Service are eligible for appointment as judicial members in various tribunals including the Central Administrative Tribunal which is of the level of a High Court in its matter of jurisdiction.

Since sub-clauses (*a*) and (*b*) of clause (*2*) of article 217 of the Constitution provide for eligibility of judicial officers and advocates for appointment as High Court Judges, it is necessary to make a provision for the members of Indian Legal Service to make them eligible for appointment as a Judge of the High Court so that their experience may also be availed of for the benefit of the judiciary.

The Bill seeks to achieve the above objective.

NEW DELHI;
March, 14, 1997.

MAHABIR LAL VISWAKARMA

BILL NO. 67 OF 1997

A Bill to provide for compulsory sterilisation for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Compulsory Sterilisation Act, 1997.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official, Gazette, appoint.

(*4*) It shall apply to all Indian Citizens including those who at present are residing outside India.

Compulsory sterilisation.

2. Either wife or husband in case of every married couple, whose second living child is born after the coming into force of this Act, or who have more than two living children on the date of coming into force of this Act, shall be required to undergo sterilisation.

Punishment for not following the small family norm.

3. After a period of one year from the date of commencement of this Act, if any person procreates another child,—

(*i*) he shall be dismissed from service, if such person is an employee of the Central Government or Union territory administration or any public undertaking under the control of Central Government;

(*ii*) he shall be disqualified from casting vote and contesting any election to the House of the People and Legislative Assemblies of the States;

(*iii*) he shall not hold any post or position in any Board, Corporation or any Organisation under the control of Central Government; and

(*iv*) he shall be punished with rigorous imprisonment for a period of three years.

Social benefits, etc. not to be given in certain cases.

4. Any living child born to a married couple, who have two or more living children, after a period of one year from the date of commencement of this Act, shall not be given any social or educational benefits extended by the Central Government from time to time and other benefits provided by the Central Government including supply of essential commodities, subsidies etc. or issued any licences and permits under any law.

Over-riding effect of the Act.

5. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

There has been unprecedented rise in the population of the country. Today's basic problem is a rapidly increasing population. Measures for family planning which have been undertaken by the Government so far have not proved effective and some sections of population are not accepting it intentionally. In spite of our alround progress, the country is going backward. This will have serious repurcussions on national, socio, economic scene and it will be difficult to provide basic necessities rapidly increasing population. Therefore, there is an immediate need to control the increase in population.

It is proposed that the norms of compulsory sterilisation of all persons having two or more living children should be adopted to control the increasing population irrespective of caste, creed and religion to which they belong. The problem has reached such an extent that it has to be tackled without any delay. Moreover, small families will help in upbringing of the children in a better manner resulting in upliftment of the whole nation.

Hence this Bill.

NEW DELHI;
March 19, 1997.

RAMESHWAR PATIDAR

BILL No. 70 OF 1997

A Bill to amend Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. (*1*) This Act may be called the Punjab Municipal Corporation Law (Extension to Chandigarh) Amendment Act, 1997.

Amendment of the Schedule.

2. In the Schedule to the Punjab Municipal Corporation Law (Extension to Chandigarh) Act, 1994, in the entry relating to Section 4, in sub-section (3), for "with voting rights", substitute "without voting rights". 45 of 1994.

STATEMENT OF OBJECTS AND REASONS

Under article 243R of the Constitution of India, such persons who have special knowledge or experience in Municipal administration shall be represented as nominated members of Municipal Committees and Municipal Corporations and they shall not have the right to vote. With only 20 elected members in the Chandigarh Municipal Corporation, 9 nominated members can certainly upset and reverse the verdict of the electorate. Such a right to nominated members is against democratic values and traditions. It is, therefore, desirable that the nominated members are not given the right to vote.

Hence this Bill.

NEW DELHI;
March 21, 1997.

SATYA PAL JAIN

BILL No. 68 OF 1997

A Bill to provide for the protection and welfare of chilli growers.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Chilli Growers (Benefit) Act, 1997.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "chilli grower" means any person who cultivates chilli;

(*b*) "small and marginal chilli growers" shall mean chilli growers who are declared as such under this Act; and

(*c*) "prescribed" means prescribed by rules made under this Act.

3. The Central Government shall procure through the Spices Board all the chillies produced in the country and shall also fix remunerative price of chilli every year after taking into consideration the increase in prices of chilli seeds, pesticides and fertilizers, total investment capacity of chilli growers and such other factors, as may be prescribed.

Central Government to procure chilli and fix remunerative price thereof.

4. The Central Government shall endeavour to export all the excess chilli produced in the Country during a year.

Export of excess chilli.

5. The entire chilli grown by the small and marginal chilli growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of chilli produced, fall in prices of chilli and such other eventualities, as may be prescribed.

Insurance.

6. (*1*) **The Central Government shall establish a fund to be known as the Chilli Growers Benefit Fund.**

Establishment of Chilli Growers Benefit Fund.

(*2*) **The Central Government and State Governments shall contribute to the fund in such ratio, as may be prescribed.**

(*3*) The fund shall be utilized for the following purposes:—

(*i*) to extend financial help to small and marginal chilli growers in such cases, as may be prescribed;

(*ii*) giving financial assistance to chilli growers for purchasing chilli seeds, pesticides and fertilizers and in cases of low yields or fall in prices of chillies or destruction of their crops due to rains, cyclones and floods.

7. The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Chilli is grown in many parts of the country. The production of chilli is the highest in Andhra Pradesh. However, incidence of leaf curl and bacterial wilt adversely affect the production of chilli. Further, lack of availability of different varieties of chilli and the limited availability of hybrid technology has also affected the production of chilli. India has immense potential to grow chillies. However, the cost of cultivation of chilli is high mainly because of high cost of labour and plant protection chemicals. The chilli growing farmer invests huge amount of money on its cultivation but the remunerative price which he gets is not sufficient for him. The result is that the chilli grower does not sell his produce willingly. The main reason behind the chilli growers getting non-remunerative prices is availability of excess stock of chilli in the market. There is, therefore, an urgent need to bring a law assuring the chilli growers of Government's help in the event of excess production or fall in prices of chilli and also to ensure that their minimum needs are looked after by the Government. The creation of a proposed fund and the provision of insurance cover will help the chilli growers immensely.

The Bill seeks to achieve the above objective.

NEW DELHI;
March 31, 1997.

R. SAMBASIVA RAO

BILL NO. 58 OF 1997

A Bill to provide for the protection and welfare of tobacco growers.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Tobacco Growers (Benefit) Act, 1997.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "tobacco grower" means any person who cultivates tobacco;

(*b*) "small and marginal tobacco growers" shall mean tobacco growers who are declared as such under this Act; and

(*c*) "prescribed" means prescribed by rules made under this Act.

Central Government to procure tobacco and fix remunerative price thereof.

3. The Central Government shall procure through the Tobacco Board all the tobacco produced in the country and shall also fix remunerative price of tobacco every year after taking into consideration the increase in prices of tobacco seeds, pesticides and fertilizers, total investment capacity of tobacco growers and such other factors, as may be prescribed.

Export of excess tobacco.

4. The Central Government shall endeavour to export all the excess tobacco produced in the country during a year.

Insurance.

5. The entire tobacco grown by the small and marginal tobacco growers shall be compulsorily insured free of cost by the Central Government against natural calamities, decline in yields of tobacco produced, fall in prices of tobacco and such other eventualities, as may be prescribed.

Establishment of Tobacco Growers Benefit Fund.

6. (*1*) The Central Government shall establish a Fund to be known as the Tobacco Growers Benefit Fund.

(*2*) The Central Government and State Government shall contribute to the Fund in such ratio, as may be prescribed.

(*3*) The fund shall be utilized for the following purposes:—

(*a*) to extend financial help to the small and marginal farmers in such cases, as may be prescribed;

(*b*) giving financial assistance to tobacco growers for purchasing tobacco seeds, pesticides and fertilizers and in cases of low yields or fall in prices of tobacco or destruction of their crops due to rains, cyclones and floods.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Tobacco is one of the commercial crops being produced in Andhra Pradesh and other States. The estimated area under tobacco cultivation is 6600 hectares and most of which is under FCV tobacco.

Due to problems being faced for marketing the produce, the farmers are discouraged to raise the crop as a result of which the area under tobacco cultivation is being reduced. The tobacco grower is a victim of fall in the prices and also of other natural calamities like storms, heavy rains etc. Therefore, there is an urgent need to bring a law ensuring the tobacco growers of the Government's help in the event of excess production or fall in prices or damage to crops. Therefore, the creation of a fund and provision of insurance cover for tobacco growers will help them immensely.

NEW DELHI;

March 31, 1997.

R. SAMBASIVA RAO

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title and Commencement.

2. Definitions.

PART II

LEGISLATIVE ASSEMBLY

3. Legislative Assembly and its composition.

4. Qualifications for membership of Legislative Assembly.

5. Duration of Legislative Assembly.

6. Session of Legislative Assembly, prorogation and dissolution.

7. Speaker and Deputy Speaker of Legislative Assembly.

8. Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

9. Right of Lieutenant Governor to address and send message to Legislative Assembly.

10. Special address by the Lieutenant Governor.

11. Rights of Ministers as respects Legislative Assembly.

12. Oath or affirmation by members.

13. Voting in Legislative Assembly, Power of Assembly to act notwithstanding vacancies and quorum.

14. Vacation of seats.

15. Disqualifications for membership.

16. Disqualification on ground of defection.

17. Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.

18. Powers, privileges, etc. of members.

19. Salaries and allowances of members.

20. Exemption of property of the Union from taxation.

21. Restrictions on laws passed by Legislative Assembly with respect to certain matters.

22. Special provisions as to financial Bills.

23. Procedure as to lapsing of Bills.

24. Assent to Bills.

25. Bills reserved for consideration.

26. Requirements as to sanction, etc.

27. Annual financial statement.

28. Procedure in Legislative Assembly with respect to estimates.

29. Appropriation Bills.

30. Supplementary, additional or excess grants.

31. Votes on accounts.

32. Authorisation of expenditure pending its sanction by Legislative Assembly.

33. Rules of procedure.

34. Official language or languages of the Union Territory and language or languages to be used in Legislative Assembly.

35. Language to be used for Bills, Act, etc.

36. Restriction on discussion in the Legislative Assembly.

37. Courts not to inquire into proceedings of Legislative Assembly.

PART III

DELIMITATION OF CONSTITUENCIES

38. Election Commission to delimit constituencies.

39. Power of Election Commission to maintain delimitation orders upto date.

40. Elections to the Legislative Assembly.

PART IV

CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

41. Matters in which Lieutenant Governor to act in his discretion.

42. Advice by Ministers.

43. Other provisions as to Ministers.

44. Conduct of business.

45. Duties of Chief Minister as respects the furnishing of information, etc. to the Lieutenant Governor.

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

46. Consolidated Fund of the Union territory.

47. Contingency Fund of the Union territory.

48. Audit reports.

49. Relation of Lieutenant Governor and his Ministers to President.

50. Period of order made under article and approval thereof by Parliament.

51. Authorisation of expenditure by President.

52. Contract and suits.

53. Power of President to remove difficulties.

54. Laying of Rules before Legislative Assembly.

55. Amendments to the Constitution.

56. Amendment of section 27A of Act 43 of 1950.

THE SCHEDULE

BILL NO. 78 OF 1997

A Bill to provide for the creation of a Legislative Assembly for the Union Territory of Lakshadweep and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Government of Union Territory of Lakshadweep Act, 1997.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the Act and any reference in any such provision to the Commencement of this act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires:—

(*a*) "article" means an article of the Constitution;

(*b*) "assembly constituency" means a constituency provided under this Act for the purpose of election to the Legislative Assembly;

(*c*) "Election Commission" means the election commission referred to in article 324.

(*d*) "Legislative Assembly" means the Legislative Assembly of the Union territory of Lakshadweep;

(*e*) "Scheduled Castes/Scheduled Tribes" in relation to the Union territory means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under articles 341 and 342 of the Constitution to be Scheduled Caste or Scheduled Tribe in relation to that Union territory;

(*f*) "Union territory" means the Union territory of Lakshadweep.

PART II

LEGISLATIVE ASSEMBLY

Legislative Assembly and its composition.

3. (*1*) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be forty.

(*2*) For the purposes of election to the Legislative Assembly, the Union territory shall be divided into single-member assembly constituencies in accordance with the provisions of Part III in such manner that the population of each of the constituencies shall, so far as practicable, be the same throughout the Union territory.

(*3*) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes or Scheduled Tribes in the Union territory bears to the total population of the Union territory.

Qualifications for membership of Legislative Assembly.

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he,—

(*a*) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Schedule;

(*b*) is not less than twenty-five years of age; and

(*c*) possess such other qualifications as may be prescribed in that behalf by or under any law made by Parliament.

Duration of Legislative Assembly.

5. The Legislative Assembly unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may be extended as while a proclamation of emergency issued under clause (1) of article 352 is in operation, by the President by order for a period not exceeding one year at a time and not extending it in any case beyond a period of six months after the proclamation has ceased to operate.

Session of Legislative Assembly, prorogation and dissolution.

6. (*1*) The Lieutenant Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Lieutenant Governor may, from time to time,—

(a) prorogue the Assembly;

(b) dissolve the Assembly.

Speaker and Deputy Speaker of Legislative Assembly.

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

(a) shall vacate his office if he ceases to be a member of the Assembly;

(b) may, at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker to the Speaker resign his office; and

(c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, by the Deputy Speaker, or if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Speaker or Deputy Speaker not to preside while a resolution for his removal from office is under consideration.

8. (1) At any sitting of the Legislative Assembly while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the provisions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

Right of Lieutenant Governor to address and send message to Legislative Assembly.

9. (1) The Lieutenant Governor may address the Legislative Assembly and for that purpose require the attendance of members.

(2) The Lieutenant Governor may send message to the Assembly whether with respect to a Bill then pending in the Assembly or otherwise and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

Special address by the Lieutenant Governor.

10. (*1*) At the commencement of the first session after each general election to the Legislative Assembly at the commencement of the first session of each year, the Lieutenant Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(*2*) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

Rights of Ministers as respects Legislative Assembly.

11. Every Minister shall have the right to speak in and otherwise to take part in the proceedings of the Legislative Assembly and to speak in and otherwise to take part in the proceedings of any committee of the Legislative Assembly which he may be named a member, but shall not by virtue of this section be entitled to vote.

Oath or affirmation by member.

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lieutenant Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Schedule.

Voting in Legislative Assembly, Power of Assembly to act notwithstanding vacancies and quorum.

13. (*1*) Save as otherwise provided in the Act, question at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(*2*) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(*3*) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(*4*) The quorum to constitute a meeting of the Assembly shall be one third of the total number of members of the Assembly.

(*5*) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

Vacation of seats.

14. (*1*) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then at the expiration of such period as is specified in or under the Representation of the People Act, 1951, and the rules made by the President under clause (2) of article 190, that person's seat in Parliament shall become vacant, unless he had previously resigned his seat in the Legislative Assembly.

43 of 1951.

(*2*) If a member of the Legislative Assembly—

(*a*) becomes subject to any disqualification mentioned in section 15 or section 16 for membership of the Assembly or

(*b*) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker,

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in clause (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine he shall not accept such resignation.

(*3*) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

Disqualification for membership.

15. (*1*) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly—

(*a*) if he holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of any other Union territory not to disqualify its holder; or

(*b*) if he is for the time being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b) or sub-clause (c) of sub-clause (1) of article 102 or of any law made in pursuance of that article.

(*2*) For the purpose of the section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of any Union territory by reason only that he is a Minister either for the Union or for such State or Union territory.

(*3*) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section(1), the question shall be referred for the decision of the President and his decision shall be final.

(*4*) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

Disqualification on ground of defection.

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 37 of this Act), apply to and in relation to the members of the Legislative Assembly of a State and accordingly:—

(*a*) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and

(*b*) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

Powers, Privileges, etc., of members.

18. (*1*) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

(*2*) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(*3*) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the people and its members and committees.

(*4*) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings, of the Legislative Assembly or any committee thereof as they apply, in relation to members of that Assembly.

Salaries and allowances of members.

19. Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time determine by the Legislative Assembly by law and until provision in that behalf is so made, such salaries and allowances as the Lieutenant Governor may, with the approval of the President, by order determine.

Exemption of property of the Union from taxation.

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by under any other law in force in the Union territory:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within the Union territory from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as the tax continues to be levied in the Union territory.

Restrictions on laws passed by Legislative Assembly with respect to certain matters.

21. (*1*) The provisions of article 286, article 287 and article 288 shall apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

(*2*) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in that article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

Special provisions as to Financial Bills.

22. (*1*) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Lieutenant Governor if such bill or amendment makes provision for any of the following matters, namely:—

(*a*) the imposition, abolition, remission, alteration or regulation of any tax;

(*b*) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Union territory;

(*c*) the appropriation of moneys out of the Consolidated Fund of the Union territory;

(*d*) the declaring of any expenditure to the expenditure charged on the Consolidated Fund of the Union territory or the increasing of the amount of any such expenditure;

(*e*) the receipt of money on account of the Consolidated Fund of the Union territory or the custody of such money;

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(*2*) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for license or fees for services rendered, or by reason that if provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(*3*) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Union territory shall not be passed by the Legislative Assembly unless the Lieutenant Governor has recommended to that Assembly the consideration of the Bill.

Procedure as to lapsing of Bills.

23. (*1*) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly.

(*2*) A Bill which in pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

Assent to Bills.

24. When a Bill has been passed by the Legislative Assembly it shall be presented to the Lieutenant Governor and the Lieutenant Governor shall declare either that he assents to the Bill or that he witholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Lieutenant Governor may, as soon as possible after the presentation of the Bill for his assent, return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lieutenant Governor for assent, the Lieutenant Governor shall declare either that he assents, to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lieutenant Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which,—

(*a*) in the opinion of the Lieutenant Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or

(*b*) the President may, by order, direct to be reserved for his consideration; or

(*c*) relates to matter referred to in sub-section (5) of section 7 or section 19 or section 34 or sub-section (3) of section 43.

Explanation.— For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

Bills reserved for consideration.

25. When a Bill is reserved by the Lieutenant Governor for the cosideration of the President, the President shall declare either that he assents to the Bill or that he withholds assent therefrom:

Provided that where the Bill is not a money Bill, the President may direct the Lieutenant Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amendment it shall be presented again to the President for his consideration.

Requirements as to sanction, etc.

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lieutenant Governor or, one being reserved by the Lieutenant Governor for the consideration of the President, by the President.

Annual financial statement.

27. (*1*) The Lieutenant Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous sanction of the President, a statement of the estimated receipts and expenditure of the Union territory for the year, in this part referred to as the "annual financial statement".

(*2*) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Union territory; and

(*b*) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the territory and shall distinguish expenditure on revenue account from other expenditure.

(*3*) Notwithstanding anything contained in any law for the time being in force, the following expenditure shall be expenditure charged on the Consolidated Fund of the Union territory;

(*a*) the emoluments and allowances of the Lieutenant Governor and other expenditure relating to his office as determined by the President by general or special order;

(*b*) the charges payable in respect of loans advanced to the Union territory from the Consolidated Fund of India including interest, sinking fund charges and redemption charges and other expenditure connected therewith;

(*c*) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;

(*d*) any sums required to satisfy any judgement, decree or award of any court or arbitral tribunal;

(*e*) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

Procedure in Legislative Assembly with respect to estimates.

28. (*1*) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the submitted to the vote of the Legislative Assembly but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have the power to assent or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(*3*) No demand for a grant shall be made except on the recommendation of the Lieutenant Governor.

Appropriation Bills.

29. (*1*) As soon as may be after the grants under section 28 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Union territory of all moneys required to meet—

(*a*) the grants so made by the Assembly; and

(*b*) the expenditure charged on the Consolidated Fund of the Union territory but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant made or of varying the amount of any expenditure charged on the Consolidated Fund of the Union territory and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(*3*) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law passed in accordance with provisions of this section.

Supplementary, additional or excess grants.

30. (*1*) The Lieutenant Governor shall,—

(*a*) if the amount authorised by any law made in accordance with provisions of section 29 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or

(*b*) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year, cause to be laid before the Legislative Assembly, with the previous sanction of the President, another Statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly with such previous sanction a demand for such excess, as the case may be.

(*2*) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of money out of the Consolidated Fund of the Union territory to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Union territory to meet such expenditure or grant.

Votes on account.

31. (*1*) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withdrawal of moneys from the Consolidated Fund of the Union territory for the purposes for which the said grant is made.

(*2*) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys, out of the Consolidated Fund of the Union territory to meet such expenditure.

Authorisation of expenditure pending its sanction by Legislative Assembly.

32. Notwithstanding anything in the foregoing provisions of this Part, the Lieutenant Governor may authorise such expenditure from the Consolidated Fund of the Union Territory as he deems necessary for a period of not more than six months beginning from the date of the constitution of the Consolidated Fund of the Union territory, pending the sanction of such expenditure by the Legislative Assembly.

Rules of Procedure.

33. (*1*) The Legislative Assembly may make rules regulating, subject to the provisions of this Act, its procedure and the conduct of its business:

Provided that the Lieutenant Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules

(a) for securing the timely completion of financial business;

(b) for regulating the procedure of, and the conduct of business in, the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Union territory;

(c) for prohibiting the discussion of, or the asking of questions on, any matters which affects the discharge of the functions of the Lieutenant Governor in so far as he is required by or under this Act or any law to act in his discretion.

(*2*) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the Legislative Assembly of the State of Uttar Pradesh in forces immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lieutenant Governor.

Official language or languages of the Union Territory and language or languages to be used in Legislative Assembly.

34. (*1*) The Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory:

Provided that the President may by order direct—

(*i*) that the official language of the Union shall be adopted for such of the official purpsoes of the Union territory as may be specified in the order.

(*ii*) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

(*2*) The business in the Legislative Assembly shall be transacted in the official language or languages of the Union territory or in Hindi or in English:

Provided that the Speaker of the Legislative Assembly or the person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid, to address the Assembly in his mother-tongue.

Languages to be used for Bills, Acts, etc.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

(*a*) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;

(*b*) of all Acts passed by the Legislative Assembly; and

(*c*) of all orders, rules, regulations and bye-laws issued under any law made by the Legislative Assembly shall be in English language:

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made the Legislative Assembly, a translation of the same in the English language published under the authority of the Lieutenant Governor in the official gazette shall be deemed to be the authoritative text thereof in the English language.

Restrictions on discussion in the Legislative Assembly.

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties.

Courts not to inquire into proceedings of Legislative Assembly.

37. (*1*) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(*2*) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

PART III

DELIMITATION OF CONSTITUENCIES

Election Commission to delimit constituencies.

38. (*1*) **The Election Commission shall, in the manner herein provided, distribute the seats assigned to the Legislative Assembly under section 3 to single-member territorial constituencies and delimit them having regard to the following provisions, namely:—**

(*a*) all constituencies shall, as far as practicable, be delimited in such manner that the ratio between the population of each of such constituencies and the total population of the Union territory is the same; and

(*b*) constituencies in which seats are reserved for the Scheduled Castes or Tribes shall, as far as possible, be located in areas where the proportion of the population to the total population is comparatively large.

(*2*) The Election Commission shall—

(*a*) publish its proposals for the delimitation of constituencies in the official Gazette and also in such other manner as the Commission may consider fit together

with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which their proposals will be further considered by it;

(*b*) consider all objections and suggestions which may have been received by it before the date so specified;

(*c*) after considering all objections and suggestions which may have been received by it before the date so specified, finalise delimitation of constituencies and cause such order or orders to be published in the official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

Power of Election Commission to maintain delimitation orders up to date.

39. The Election Commission may, from time to time, by notification in the official Gazette,—

(*a*) correct any printing mistakes in any order made under section 38 or any error arising therein from inadvertent slip or omission; and

(*b*) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order uptodate.

Election to the Legislative Assembly.

40. (*1*) For the purpose of constituting the Legislative Assembly, a general election will be held as soon as may be after the delimitation of all the assembly constituencies under section 38.

(*2*) For the purposes of sub-section (*1*), the Lieutenant Governor shall, by one or more notifications published in the official Gazette, call upon all the said assembly constituencies to elect members in accordance with the provisions of the Representation of the People Act, 1951 and of the rules and orders made or issued thereunder as applicable under sub-section (*3*). 43 of 1951

(*3*) The Representation of People Act, 1950, the Representation of the People Act, 1951 the rules and orders made or issued under the said Acts and all other laws for the time being in force relating to the elections shall apply with necessary modifications (including modifications for construing references therein to a State, State Government and Governor as including references to the Union territory, Government of the Union territory and Lieutenant Governor, respectively) to, and in relation to, the general election referred to in sub-section (*1*). 43 of 1950 43 of 1951

PART IV

CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

Matters in which Lieutenant Governor to act in his discretion.

41. (*1*) The Lieutenant Governor shall act in his discretion in a matter—

(*i*) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President, or

(*ii*) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(*2*) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

(*3*) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is required by any law to exercise any judicial or quasi-judicial functions, the decision of the Lieutenant Governor thereon shall be final.

Advice by Ministers.

42. The question whether any, and if so what, was tendered by Ministers to the Lieutenant Governor shall not be inquired into in any court.

Other provisions as to Ministers.

43. (*1*) Before a Minister enters upon his office, the Lieutenant Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the schedule.

(*2*) A Minister who, for any period of six months, is not a member of the Legislative Assembly, at the expiration of that period, shall cease to be a Minister.

(*3*) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine and until the Legislative Assembly so determines, shall be determined by the Lieutenant Governor with the approval of the President.

Conduct of business.

44. (*1*) The President shall make rules—

(*a*) for the allocation of business to the Ministers in so far as it is business with respect to which the Lieutenant Governor is required to act on the aid and advice of his Council of Ministers; and

(*b*) for the more convenient transaction of business with the Ministers, including the procedure to be adopted in the case of a difference of opinion between the Lieutenant Governor and the Council of Ministers or a Minister.

(*2*) Save as otherwise provided in this Act, all executive action of the Lieutenant Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lieutenant Governor.

(*3*) Orders and other instruments made and executed in the name of the Lieutenant Governor shall be authenticated in such manner as may be specified in rules to be made by the Lieutenant Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Lieutenant Governor.

Duties of Chief Minister as respects the furnishing of information, etc. to the Lieutenant Governor.

45. It shall be the duty of the Chief Minister—

(*a*) to communicate to the Lt. Governor all decisions of Council of Ministers relating to the administration of the affairs of the Union territory and proposals for legislation;

(*b*) to furnish such information relating to the administration of the affairs of the Union territory and proposals for legislation as Lieutenant Governor may call for, and

(*c*) if the Lieutenant Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Consolidated Fund of the Union territory.

46. (*1*) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Union territory by the Government of India or the Lieutenant Governor in relation to any matter with respect to which the Legislative Assembly has power to make laws, and all grants made and all loans advanced to the Union territory from the Consolidated Fund of India and all moneys received by the Union territory in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of the Union territory of Lakshadweep" (referred to in this Act as the Consolidated Fund of the Union territory).

(*2*) No moneys out of the Consolidated Fund of the Union territory shall be appropriated except in accordance with and for the purposes and in the manner provided in the Act.

(*3*) The custody of the Consolidated Fund of the Union territory, the payment of moneys into such fund, the withdrawal of moneys therefrom and all other matters con-

nected with or ancillary to those matters shall be regulated by rules made by the Lieutenant Governor with the approval of the President.

Contingency fund of the Union territory.

47. (*1*) There shall be established a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the Union territory of Lakshadweep" into which shall be paid from and out of the Consolidated Fund of the Union territory such sums as may, from time to time be determined by law made by the Legislative Assembly; and the said Fund shall be held by the Lieutenant Governor to enable advances to be made by him out of such Fund.

(*2*) No advances shall be made out of the Contingency Fund referred to in sub-section (1) except for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislative Assembly under appropriation made by law.

(*3*) The Lieutenant Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys in to, and the withdrawal of moneys from the aforesaid Contingency Fund.

Audit Reports.

48. The reports of the Comptroller and Auditor General of India relating to the accounts of the Union territory for any period subsequent to the date referred to in sub-section (1) of section 46 shall be submitted to the Lieutenant Governor who shall cause them to be laid before the Legislative Assembly.

Relation of Lieutenant Governor and his Ministers to President.

49. Notwithstanding anything in this Act, the Lieutenant Governor and his Council of Ministers shall be under the general control of, and comply with such particular directions, if any, as may from time to time be given by, the President.

Period of order made under article 239AB and approval thereof by Parliament.

50. (*1*) Every order made by the President under article 239AB shall expire at the end of one year from the date of issue of the order and the provisions of clauses (2) and (3) of article 356 shall, so far may be, apply to such order as they apply to a proclamation issued under clause (1) of article 356.

(2) Notwithstanding anything contained in sub-section (1), the President may extend the duration of the aforesaid order for a further period not exceeding two years from the date of expiry of the order under sub-section (1) subject to the condition that every extension of the said order for any period beyond the expiration of one year shall be approved by resolutions of both Houses of Parliament.

Authorisation of expenditure by President.

51. Where the Legislative Assembly is dissolved or its functioning as such Assembly remains suspended, on account of an order made by the President under article 239AB, it shall be competent for the President to authorise when the House of the People is not in session expenditure from the Consolidated Fund of the Union territory pending the sanction of such expenditure by Parliament.

Contracts and suits.

52. For the removal of doubts it is hereby declared that

(*a*) all contracts in connection with the administration of the Union territory are contracts made in the exercise of the executive power of the Union; and

(*b*) all suits and proceedings in connection with the administration of the Union territory shall be instituted by or against the Government of India.

Power of President to remove difficulties.

53. (*1*) If any difficulty arises in relation to the transaction from the provisions of any law repealed by the Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order to anything not inconsistent with the provisions of the constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no order under the sub-section shall be made after the expiry of three years from the date of constitution of the first Legislative Assembly.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

Laying of rules before Legislative Assembly.

54. Every rule made by the Lieutenant Governor under this Act shall be laid, as soon as it is made, before the Legislative Assembly.

Amendments to the Constitution.

55. On and from the appointed day—

(*a*) after article 239AA, the following article shall be inserted, namely:—

Special provision with respect to Lakshadweep.

"239AAA. (*1*) As from the date of commencement of the Government of Union territory of the Government of the Union territory of Lakshadweep Act, 1997 the administrator of the Union territory of Lakshadweep appointed under article 239 shall be designated as the Lieutenant Governor.

(*2*) The provisions of articles 239AA and 239AB shall, so far as may be, apply *mutatis mutandis* in relation to the Union territory of Lakshadweep, Lieutenant Governor and the Legislative Assembly, as they apply in relation to the National Capital Territory of Delhi and its Legislature, respectively.";

(*b*) in article 240, in clause (1), for the existing proviso, the following provisos shall be substituted, namely:—

"Provided that when any body is created under article 239A or 239AAA to function as a Legislature for the Union territory of Pondicherry or Union territory of Lakshadweep, as the case may be, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the legislature:

Provided further that whenever the body functioning as a Legislature for the Union territory of Pondicherry or Lakshadweep, as the case may be, is dissolved, or the functioning of that body as such legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239A or 239AB, as the case may be, the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory."

(*c*) In the Fourth Schedule to the Constitution, in the Table,

(*a*) entries 26 and 27 shall be re-numbered as entries 27 and 28 respectively, and before entry 27 as so re-numbered, the following entry shall be inserted, namely:—

"26. Lakshadweep.....1";

(*b*) for the figures "233", the figures "234" shall be substituted.

43 of 1950.

Amendment of section 27A of Act 43 of 1950.

56. In section 27A of the Representation of People Act, 1950, after sub-section (4), the following sub-section shall be inserted, namely:—

"(*5*) The electoral college for the Union territory of Lakshadweep shall consist of the elected members of the Legislative Assembly constituted for that territory under the Government of Union territory of Lakshadweep Act, 1997."

THE SCHEDULE

(*See* sections 4, 12 and 43)

FORMS OF OATH OR AFFIRMATIONS

I

Form of oath or affirmation to be made by a candidate for election to the Legislative Assembly:—

"I, AB, having been nominated as a candidate to fill a seat in the Legislative Assembly, do swear in the name of God/solemnly affirm that I bear true faith and

allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, AB, having been elected a member of the Legislative Assembly, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duty upon which I am about to enter"

III

Form of oath of office of a member of the Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister, and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

IV

Form of oath of Secrecy for a member of Council of Ministers:—

"I, AB, do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister except as may be required for the due discharge of any duties as such Minister."

STATEMENT OF OBJECTS AND REASONS

Even after 50 years of Independence, the Union territory of Lakshadweep has not been provided with a democratic set-up with a Legislative Assembly for the governance of the affairs of the Union territory Administration. All powers are vested in the Lieutenant Governor and the bureaucracy continues to reign supreme. In the absence of Legislative Assembly with devolution of powers, the people of the islands are not enable to have a sense of belonging and involvement in the developmental activities of the islands and do not say in the utilisation of the funds provided by the Central Government in proper perspective.

The type of administration provided to the Union territory is not at all befitting to a democratic set-up and devolution of powers. The population of the Union territory has crossed four lakhs mark and the literacy percentage is well over the national average and is steadily heading towards achieving cent per cent literacy as per norms prescribed by the Government of India.

However, despite of all these favourable points the people of the Union territory did not get administrative set-up of their own choice mainly due to unforesighted views of the Central Government. They deserve a political set-up in the same line as Delhi, Pondicherry and the like are having.

There have been series of demands from the people of the Union territory for providing a Legislative Assembly on the line of the set-up in Delhi and Pondicherry. The people of the island territory are unanimous in this regard. Now, since a three-tier Panchayati Raj system is also in offing in pursuance with the Constitution (Seventy-third Amendment) Act with the idea of devolution of powers at Panchayat, block and district levels, it is high time that a Legislative Assembly was provided to set the tone and direction for the governance of the Union territory Administration on democratic norms.

The Bill seeks to achieve the aforesaid objectives.

New Delhi;
April 21, 1997

BASUDEB ACHARIA

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title.

2. Definitions.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

3. Formation of the State of Uttarakhand.

4. State of Uttar Pradesh and territorial divisions thereof.

5. Amendment of the First Schedule.

PART III

REPRESENTATION IN THE LEGISLATURES
THE COUNCIL OF STATES

6. Amendment of the Fourth Schedule to the Constitution.

7. Allocation of sitting members.

8. Filling up of vacancies.

THE HOUSE OF THE PEOPLE

9. Provision as to existing House.

THE LEGISLATIVE ASSEMBLIES

10. Provision as to Legislative Assembly.

11. Allocation of sitting members.

12. Duration of Legislative Assembly of the State of Uttarakhand.

DELIMITATION OF CONSTITUENCIES

13. Allocation of seats in the House of the People.

14. Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

15. Common High Court for Uttar Pradesh and Uttarakhand.

16. Jurisdiction of the common High Court.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

17. Distribution of Revenues.

18. Authorisation of expenditure of the State of Uttarakhand.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

19. Application of part.

20. Land and goods.

21. Treasury and bank balances.

22. Arrears of Taxes

PART VII

PROVISIONS AS TO SERVICES

23. Provisions relating to all India Services.

24. Provisions relating to other services.

25. Power to make rules.

BILL No. 74 OF 1997

A Bill to provide for the establishment of the State of Uttarakhand by reorganisation of the existing State of Uttar Pradesh.

BE it enacted by Parliament in the Forty-eighth year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title. 1. This Act may be called the State of Uttarakhand Act, 1997.

Definitions. 2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "article" means the article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of People Act, 1950;

(*d*) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;

(*e*) "Law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(*f*) "notified order" means an order published in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "sitting member" in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day is a member of that House;

(*i*) "State of Uttar Pradesh" means the State with the same name, comprising territories referred to in section 4;

(*j*) "successor State" in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttarakhand;

(*k*) "treasury" includes a sub-treasury; and

(*l*) any reference to a district, tehsil, or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the first day of July, 1996.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of the State of Uttarakhand.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttarakhand comprising the following territories of the existing State of Uttar Pradesh, namely:—

"Almora, Nainital, Pauri Garhwal, Tehri, Dehradun, Udham Singh Nagar, Uttar Kashi, Chamoli and Pithoragarh districts and the Kumbha Mela area of Haridwar District".

State of Uttar Pradesh and territorial divisions thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those mentioned in section 3.

Amendment of the First Schedule.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(*i*) in entry 13, under the heading "Territories", the following shall be added at the end, namely:—

"and excluding the territories specified in section 3 of the State of Uttarakhand Act, 1997"; and

(*ii*) after the entry 26, the following entry shall be inserted, namely:—

"26. Uttarakhand: the territories specified in section 3 of the State of Uttarakhand Act, 1997"

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

Amendment of the Fourth Schedule to the Constitution.

6. On and from the appointed day, in the Fourth schedule to the Constitution, in the Table:—

(*a*) entries 15 to 27 shall be re-numbered as entries 16 to 28 respectively;

(*b*) after entry 14, the following entry shall be inserted, namely:—

"15. Uttarakhand 3;

(c) in entry 16 as so re-numbered, for the figures "34", the figures "31" shall be substituted.

Allocation of sitting members.

7. (*1*) On and from the appointed day, the thirty-four sitting members of the council of States representing the existing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttarakhand and Uttar Pradesh as specified in the Fourth Schedule.

(*2*) The terms of office of such sitting members shall remain unaltered.

Filling up of vacancies.

8. (*1*) As soon as may be after the appointed day, elections shall be held to fill the vacancies existing on the appointed day in the seats allotted to the State of Uttarakhand.

(*2*) The terms of office of such one of the two members so elected, as the Chairman of the Council of States may determine by drawing lot, shall expire on the 2nd day of April, 1998 and the term of office of the other member shall expire on the 2nd day of April, 2000.

THE HOUSE OF THE PEOPLE

Provision as to existing House.

9. Nothing in Part II shall be deemed to affect the constitution or duration of the existing House of the People or the extent of the constituency of any sitting member of that House.

THE LEGISLATIVE ASSEMBLIES

Provision as to Legislative Assembly.

10. (*1*) The number of seats as on the appointed day in the Legislative Assembly of the State of Uttarakhand shall be seventy-five.

(*2*) In the Second Schedule to the Representation of People Act, 1950, under the heading I-States,—

(*i*) entries 24 and 25 shall be re-numbered as entries 25 and 26 respectively; and

(*ii*) before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

"24. Uttarakhand 75....."

Allocation of sitting members.

11. (*1*) Every sitting member of the Legislative Assembly of Uttar Pradesh elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boundaries to the State of Uttarakhand shall, on and from that day, ceases to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttarakhand.

(*2*) All other sitting members of the Legislative Assembly of Uttar Pradesh shall continue to be members of Legislative Assembly of the State.

(*3*) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Uttarakhand and Uttar Pradesh shall be deemed to be duly constituted on the appointed day.

Duration of Legislative Assembly of the State of Uttarakhand.

12. The period of five years referred to in clause (1) of article 172 shall, in the case of Legislative Assembly of Uttarakhand, be deemed to have commenced on the date on which the Legislative Assembly of Uttar Pradesh actually commenced.

DELIMITATION OF CONSTITUENCIES

Allocation of seats in the House of People.

13. In the House of the People to be constituted after the commencement of this Act, there shall be allotted five seats to the State of Uttarakhand.

Allocation of seats in the Legislative Assembly.

14. The total number of Seats in the Legislative Assembly of Uttarakhand, to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies, shall be seventy-five of which ten seats shall be reserved for Scheduled castes and Scheduled tribes.

PART IV

HIGH COURT

Common High Court for Uttar Pradesh and Uttarakhand.

15. (*1*) On and from the appointed day,—

(*a*) there shall be common High Court for the States of Uttar Pradesh and Uttarakhand, for the time being, to be called the High Court of Uttar Pradesh and Uttarakhand (hereinafter referred to as the Common High Court).

(*b*) The Judges of the High Court of Uttar Pradesh holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the Common High Court.

(*2*) The expenditure in respect of salaries and allowances of the Judges of the Common High Court shall be allocated amongst the States of Uttar Pradesh and Uttarakhand in such proportion as the President may, by order, determine.

Jurisdiction of the common High Court.

16. On and from the appointed day, the Common High Court shall have, in respect of the territories comprised in the States of Uttar Pradesh and Uttarakhand, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Uttar Pradesh.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Distribution of Revenues.

17. The President shall by order, determine the grants-in-aid of the revenues of the State of Uttarakhand and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1985 in such manner as he thinks fit.

58 of 1957.
24 of 1979.
9 of 1962.

Authorisation of expenditure of the State of Uttarakhand.

18. The Governor of the existing State of Uttar Pradesh may at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for any period not exceeding beyond the 31st day of March, 1998, pending the sanction of such expenditure by the legislative assembly of the State of Uttarakhand;

Provided that the Governor of Uttarakhand may, after appointed day, authorise such further expenditure from the Consolidated Fund of the State of Uttarakhand as he deems necessary for the said period pending such sanction.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of part.

19. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Land and goods.

20. (*1*) Subject to the other provisions of this part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

(*a*) if within that State, pass to the successor State in whose territories they are situated, or

(*b*) if outside that State, pass to the State of Uttar Pradesh:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(*2*) The stores held for specific purposes, such as use of utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings of works are located.

(*3*) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(*4*) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1998 for territories of the existing State of Uttar Pradesh included respectively in each of the successor States.

(*5*) In this section the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

21. The total of the cash balances in all treasuries of the existing State of Uttar Pradesh and credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be affected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears of taxes.

22. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions relating to All India Services.

23. (*1*) In this section, the expression "State Cadre"—

(*a*) in relation to the Indian Administrative Service; has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) in relation to the Indian Police Service has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Uttar Pradesh, these shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttarakhand, in respect of each of these services.

(*3*) The initial strength and the composition of each of the State cadres for the States of Uttar Pradesh and Uttarakhand shall be such as the Central Government may, by order, determine before the appointed day.

(*4*) The members of each of the said services borne on the State cadre for the existing State of Uttar Pradesh immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Uttar Pradesh and Uttarakhand in such manner and with effect from such date or dates as the Central Government may, by order, specify.

(*5*) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All India Services Act, 1951, or the rules made thereunder in relation to the State cadres of said services referred to in sub-section (3) and in relation to the members of these services borne on the said cadres.

Provisions relating of other services.

24. (*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the exlsting State of Uttar Pradesh shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (*1*) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(*3*) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is noi already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(*4*) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to—

(*a*) the division and integration of the services among the successor States; and

(*b*) the ensuring of fair and equitable ireatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

Power to make rules.

25. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The people of Uttarakhand (nine hill districts of Uttar Pradesh and Kumbha Mela area of Haridwar district) have made significant contribution in the freedom struggle of India.

The specific social and economic problems of the people of this region require special treatment in democratic and independent India.

The problems of the people of this region have been accumulating and the people continue to suffer.

The changes in the administrative set up under the Constitution were found necessary for the sustained growth and development of the people of Himachal Pradesh and Arunachal Pradesh besides other areas in North-Eastern India.

The Uttar Pradesh State Assembly also felt persuaded to adopt a resolution to carve out a separate State of Uttarakhand to end the neglect of the people of this region.

The formation of a separate hill State of Uttarakhand is essential to ensure a balanced development of this region in all its dimensions so that the rich intellectual potential of the people of this region and even richer material resources available with unique advantage of environment, are duly exploited by an appropriate democratic set-up to unleash the creative energies of the people of Uttarakhand. It is, therefore, proposed to provide for the establishment of the State of Uttarakhand with its legislature, executive and the judiciary like other Indian States, in accordance with the Constitution of India.

Hence this Bill.

NEW DELHI;
July 10, 1996.

JAI PRAKASH AGARWAL

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA.

[Copy of letter No. 16017/7/96-SR, dated 9 May 1997 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the State of Uttarakhand Bill, 1997 by Shri Jai Prakash Agarwal, Member of Parliament, has accorded his recommendation under articles 3, 117(1) and 274(1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title.

2. Definitions.

PART II

REORGANISATION OF THE STATE OF MAHARASHTRA

3. Formation of the State of Vidarbha.

4. State of Maharashtra and territorial divisions thereof.

5. Amendment of the First Schedule to the Constitution.

6. Saving powers of Government.

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

7. Amendment of the Fourth Schedule to the Constitution.

8. Allocation of sitting members.

9. Filling up of vacancies.

10. Term of office of sitting members.

THE HOUSE OF THE PEOPLE

11. Allocation of seats in the House of the People.

12. Amendment of Schedule I to Delimitation Order.

13. Provisions as to sitting members.

THE LEGISLATIVE ASSEMBLY

14. Allocation of sitting members.

15. Duration of Legislative Assembly.

16. Provisions as to Speaker and Deputy Speaker.

17. Rules of Procedure.

PART IV

HIGH COURT

18. High Court for Vidarbha.

19. Judges of High Court of Vidarbha.

20. Jurisdiction of High Court of Vidarbha.

21. Provisions as to advocates.

CLAUSES

22. Practice and Procedure in High Court of Vidarbha.

23. Custody of seal of High Court of Vidarbha.

24. Forms of writs and other processes.

25. Powers of Judges.

26. Transfer of proceedings from High Court at Bombay to High Court of Vidarbha.

27. Right to appear or to act in proceedings transferred to High Court of Vidarbha.

28. Interpretation.

29. Savings.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

30. Authorisation of expenditure of the State of Vidarbha.

31. Reports relating to accounts of existing State of Vidarbha.

32. Allowances and privileges of Governor of Vidarbha.

33. Distribution of Revenue.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

34. Application of Part.

35. Land and goods.

36. Treasury and bank balances.

37. Arrears of taxes.

38. Right to recover loans and advances.

PART VIII

PROVISIONS AS TO SERVICES

39. Provisions relating to All-India Services.

40. Provisions relating to other services.

41. Provisions as to continuance of officers in same post.

42. Power of Central Government to give directions.

PART IX

LEGAL AND MISCELLANEOUS PROVISION

43. Amendment of article 371.

44. Territorial extent of laws.

45. Power to adapt laws.

46. Power to construe laws.

47. Power to name authorities, etc. for existing statutory functions.

48. Legal proceedings.

49. Transfer of pending proceedings.

50. Right of pleaders to practise in certain cases.

51. Over-riding effect.

52. Power to remove difficulties.

53. Power to make rules.

BILL NO. 77 OF 1997

A Bill to provide for the formation of the State of Vidarbha by reorganisation of the existing State of Maharashtra and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the State of Vidarbha Act, 1997.

Definitions.

2. In this Act, unless the context otherwise reqires,—

(*a*) "appointed day" means the 26th day of January 1998;

(*b*) "article" means an article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as are assigned to them in the Representation of the People Act, 1950;

43 of 1950.

(*d*) "existing State of Maharashtra" means the State of Maharashtra as existing immediately before the appointed day;

(*e*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Maharashtra;

(*f*) "notified order" means an order published in the Official Gazette;

(*g*) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Maharashtra, means a person who, immediately before the appointed day, is a member of that House;

(*h*) "transferred territory" means the territories which on and from the appointed day, are the territories of the State of Vidarbha;

(*i*) "treasury" includes a sub-treasury; and

(*j*) any reference to a district, taluka, village or other territorial division of the existing State of Maharashtra shall be construed as a reference to the area comprised within that territorial division, as recognised for land revenue purposes, on the 1st day of April, 1996.

PART II

REORGANISATION OF THE STATE OF MAHARASHTRA

Formation of the State of Vidarbha.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Vidarbha comprising the following territories of the existing State of Maharashtra, namely:

"Nagpur, Amaravati, Yavatmal, Akola, Buldhana, Wardha, Chandrapur, Gadchiroli, and Bhandra districts."

State of Maharashtra and territorial divisions thereof.

4. On and from the appointed day, the State of Maharashtra shall comprise the territories of the existing State of Maharashtra other than those mentioned in section 3.

Amendment of the First Schedule.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading

"I. THE STATES",—

(*i*) in entry 8, under the heading "Territories", the following shall be added at the end, namely:—

"and the territories referred to in section 3 of the State of Vidarbha Act, 1997" and

(*ii*) after entry 25, the following entry shall be added, namely:—

"26— Vidarbha The territories specified in section 3 of the State of Vidarbha Act, 1997."

Saving powers of Government.

6. Nothing in the foregoing provisions of this Part shall be deemed to effect the power of the Government of Maharashtra or Vidarbha to alter, on and from the appointed day, the name, extent or boundaries of any district, taluka or village in that State.

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

Amendment of the Fourth Schedule to the Constitution.

7. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) in entry 10, for the figure "19", the figure "13" shall be substituted;

(*b*) after entry 15, the following entry shall be inserted, namely:—

"16. Vidarbha 6"; and

(*c*) entries 16 to 27 shall be renumbered as entries 17 to 28, respectively.

Allocation of sitting members.

8. (*1*) On and from the appointed day, such of the thirteen sitting members of the Council of States representing the existing State of Maharashtra, as the Chairman of the Council of States may, by order specify, shall be deemed to have been duly elected to the council of States to represent the State of Maharashtra.

(2) On and from the appointed day, the remaining six sitting members of the Council of States representing the existing State of Maharashtra shall be deemed to have been duly elected to the Council of States to represent the State of Vidarbha.

Filling up of vacancies.

9. As soon as may be after the appointed day, elections shall be held to fill the vacancies, including casual vacancies, if any, in the seats allotted in the Council of States to the State of Vidarbha.

Term of office of sitting members.

10. The terms of office of the sitting members and of the members chosen to fill the casual vacancies, if any, in the Council of States to represent the State of Vidarbha shall remain unaltered.

THE HOUSE OF THE PEOPLE

Allocation of seats in the House of the people.

11. (*1*) On and from the appointed day, there shall be allotted thirty-six seats to the State of Maharashtra and twelve seats to the State of Vidarbha, in the House of People.

43 of 1950 (2) In the First Schedule to the Representation of the People Act, 1950,—

(*i*) entries 12 to 25 shall be re-numbered as entries 13 to 26, respectively;

(*ii*) after entry 11, the following entry and figure under columns 5 thereof shall be inserted, namely:—

"12. Vidarbha.....12"

(*iii*) in entry 14, as so re-numbered, for the figures "48" and the figure "3" under columns 5 and 6, respectively, the figures "36" and the figure "2" shall be substituted.

Amendment of Schedule I to Delimitation.

12. On and from the appointed day, the Schedule I to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended accordingly.

Provisions as to sitting members.

13. Every sitting member of the House of the People representing a constituency which on the appointed day, by virtue of the provisions of section 11, stands allotted, with or without alteration of boundaries, to the State of Maharashtra or to the State of Vidarbha, shall be deemed to have been duly elected to the House of the People by that constituency as so allotted.

THE LEGISLATIVE ASSEMBLY

Allocation of sitting members.

14. (*1*) Every sitting member of the Legislative Assembly of existing State of Maharashtra representing a constitutency which on the appointed day, stands transferred, with or without alteration of boundaries, to the State of Vidarbha shall, on and from that day, cease to be a member of the Legislative assembly of Maharashtra and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Vidarbha.

(2) All other sitting members of the Legislative Assembly of the existing State of Maharashtra shall continue to be members of the Legislative Assembly of Maharashtra.

(*3*) The sitting member of the Legislative Assembly of Maharashtra nominated to that Assembly under article 333 of the Constitution to represent the Anglo-Indian Community shall continue to represent the community in the Legislative Assembly of Maharashtra.

Duration of legislative Assembly.

15. The period five years referred to in clause (1) of article 172 of the Constitution shall, in the case of the Legislative Assembly of Maharashtra or Vidarbha, be deemed to have commenced on the date on which the Legislative Assembly of existing State of Maharashtra actually commenced.

Provisions as to Speaker and Deputy Speaker.

16. (*1*) The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Maharashtra shall continue to be the Speaker and Deputy Speaker, respectively, of the Legislative Assembly of Maharashtra.

(*2*) As soon as may be after the appointed day, Legislative Assembly of Vidarbha choose two members of that Assembly to be respectively the Speaker and the Deputy Speaker of that Assembly and until they are so chosen, the duties of the office of the Speaker shall be performed by such member of that Assembly, as the Governor may appoint.

Rules of Procedure.

17. The rules of procedure and conduct of business as in force immediately before the appointed day with respect to the Legislative Assembly of the existing State of Maharashtra shall, until rules are made under clause (1) of article 208, have effect in relation to the Legislative Assembly of Vidarbha, subject to such modification and adaptations as may be made therein by the Speaker thereof.

PART IV

HIGH COURT

High Court for Vidarbha.

18. (*1*) On and from the appointed day, there shall be a separate High Court for the State of Vidarbha (herein after referred to as the High Court of Vidarbha) and the High Court at Bombay shall continue to be the High Court for the State of Maharashtra.

(*2*) The principal seat of the High Court of Vidarbha shall be at Nagpur.

(*3*) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Vidarbha may also sit at such other place or places in the State of Vidarbha as the Chief Justice may, with the approval of the Governor of Vidarbha, appoint.

Judges of High Court of Vidarbha.

19. (*1*) Such of the Judges of the High Court at Bombay holding office immediately before the appointed day, as may be determined by the President, shall cease to be judges of the High Court at Bombay and become Judges of the High Court of Vidarbha.

(*2*) The persons who by virtue of sub-section (1) become Judges of the High Court of Vidarbha shall, except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the seniority of their respective appointments as Judges of the High Court at Bombay.

Jurisdiction of High Court of Vidarbha.

20. On and from the appointed day, the High Court of Vidarbha shall have, in respect of any part of the territories included in the State of Vidarbha, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those parts of the said territories by the High Court at Bombay.

Provisions to as to advocates.

21. (*1*) The High Court of Vidarbha shall have the power to approve, admit, enrol, remove and suspend advocates and to make rules with respect to advocates as are under the law in force immediately before the appointed day, exercisable by the High Court at Bombay.

(*2*) The right of audience in the High Court of Vidarbha shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Bombay:

Provided that subject to any rule made or direction given by the High Court of Vidarbha in the exercise of the powers conferred by this section, any person who immediately before the appointed day is an advocate entitled to practise in the High Court Bombay shall be entitled to practise as an advocate the High Court of Vidarbha.

Practice and Procedure in High Court of Vidarbha.

22. Subject to the provision of this Part, the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Bombay shall with necessary modifications, apply in relation to the High Court of Vidarbha and accordingly, the High Court of Vidarbha shall have all such powers to make rules and orders with respect to practice and procedure, as are immediately before the appointed day, exercisable by the High Court at Bombay.

Custody of seal of High Court of Vidarbha.

23. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court at Bombay shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Vidarbha.

Forms of Writs and other processes.

24. The law in force immediately before the appointed day with respect to the form or writs and other processes used, issued or awarded by the High Court at Bombay shall with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Vidarbha.

Powers of Judges.

25. The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division courts of the High Court at Bombay and with respect to all matters, ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the High Court of Vidarbha.

Transfer of proceedings from High Court at Bombay to High Court of Vidarbha.

26. (*1*) Except as hereinafter provided, the High Court at Bombay shall, on and from the appointed day, have no jurisdiction in respect of the transferred territories.

(*2*) All such proceedings, pending in the High Court at Bombay immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Vidarbha, as soon as may be, after such certification, be transferred to the High Court of Vidarbha.

(*3*) Notwithstanding anything contained in sub-sections (1) and (2) or in section 22 but save as hereinafter provided, the High Court at Bombay shall have, and the High Court of Vidarbha shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications, for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Bombay before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court at Bombay, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Vidarbha, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(*4*) any order made by the High Court at Bombay,—

(*a*) before the appointed day in any proceedings transferred to the High Court of Vidarbha by virtue of sub-section (2), or

(*b*) in any proceedings with respect to which the High Court at Bombay retains jurisdiction by virtue of sub-section (3), shall have effect not only as an order of that Court but also as an order of the High Court of Vidarbha.

Right to appear or to act in proceedings transferred to High Court of Vidarbha.

27. Any person, who, immediately before the appointed day, is an advocate entitled to practise in the High Court at Bombay and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Vidarbha section 34 shall have the right to appear or to act, as the case may be, in the High Court of Vidarbha in relation to those proceedings.

Interpretation.

28. For the purposes of sections 28 and 29,—

(*a*) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for

leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(*b*) references to a High Court shall be construed as including references to a judge or division court thereof, and references to an order made by a court or a judge shall be construed as including references to a sentence, judgement or decree passed or made by that court or Judge.

Savings.

29. Nothing in this part shall affect the application to the High Court of Vidarbha of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by Legislature of the State of Vidarbha or other authority having power to make such provisions.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of Expenditure of the State of Vidarbha.

30. The Governor of the existing State of Maharashtra may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Vidarbha as he deems necessary for a period of not more than six months beginning with the appointed by pending the sanction of such expenditure by the Legislative Assembly of the State of Vidarbha:

Provided that the Governor of Vidarbha, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of the State of Vidarbha for any period not extending beyond the said period of six months.

Reports relating to accounts of existing State of Vidarbha.

31. (*1*) The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Maharashtra in respect of any period prior to the appointed day shall be submitted to the Governors of each of the State of Maharashtra and Vidarbha who shall cause them to be laid before the Legislative Assemblies of their respective States.

(*2*) The President may, by order,—

(*a*) declare any expenditure incurred out of the Consolidated Fund of the existing State of Maharashtra on any service in respect of any period prior to the appointed day during the financial year 1997-98 or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (*1*) to have been duly authorised, and

(*b*) provide for any action to be taken on any matter arising out of the said reports.

Allowances and privileges of Governor of Vidarbha.

32. The allowances and privileges of the Governor of Vidarbha shall, until provision in that behalf is made by Parliament by law under clause (*3*) of article 158, be such as the President may, by order, determine.

Distribution of Revenue.

33. The President shall, by order, determine the grants-in-aid of the revenues of the State of Vidarbha and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenue) Order, 1985 in such manner as he thinks fit.

58 of 1957.
24 of 1979.
9 of 1962.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of Part.

34. The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the State of Maharashtra immediately before the appointed day.

Land and goods.

35. (*1*) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Maharashtra shall,—

(*a*) if within the transferred territory, pass to the State of Vidarbha, and,

(*b*) if outside such transferred territories, remain the property of the State of Maharashtra;

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the State of Maharashtra or, as the case may be, to the State of Vidarbha, accordingly.

(*2*) In this section the expression "land" includes immovable property of every kind and any rights in or over such property and the expression "good" does not include coins, bank notes and currency notes.

Treasury and bank balances.

36. The total of the cash balances in all treasuries of the existing State of Maharashtra and the credit balances of that State with the Reserve Bank of India, the State Bank of India and any other Bank immediately before the appointed day shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the States of Maharashtra and Vidarbha in the books of the Reserve Bank of India on the appointed day;

Provided further that if the State of Vidarbha has, on the appointed day, no account with the Reserve Bank of India the adjustment shall be made in such manner as the Central Government may by order direct.

Arrears of taxes.

37. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the State in whose territories the place of assessment of that tax or duty is included on the appointed day:

Provided that any sum recovered after the appointed day in respect of any arrears of tax accruing during the period between the 1st day of April, 1997 and the 25th day of January, 1998 under the Central Sales Tax Act, 1956, or under any other Sales Tax Act, applicable to the existing State of Maharashtra, shall, after deducting the cost of collection thereof, be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

Right to recover loans and advances.

38. (*1*) The right to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within the State of Maharashtra or Vidarbha shall belong to that State in which that area is included on that day.

(*2*) The right to recover any loans or advances made before the appointed day to any person or institution outside the existing State of Maharashtra shall belong to the State of Maharashtra:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

PART VIII

PROVISIONS AS TO SERVICES

Provisions relating to All-India Services.

39. (*1*) In this section the expression "State cadre"—

(*a*) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of the cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Maharashtra immediately before the appointed day there shall on and from that day, be two separate cadres, one for the State of Maharashtra and the other for the State of Vidarbha, in respect of each of these services.

(*3*) The initial strength and composition of each of the State Cadres shall be such as the Central Government may by order determine before the appointed day.

(*4*) The members of each of the said services borne on those cadres for the existing State of Maharashtra immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Maharashtra and Vidarbha in such manner and with effect from such date or dates as the Central Government may by order specify.

(*5*) Nothing in this section shall be deemed to affect the operation after the appointed day of the All-India Services Act, 1951, or the rules made thereunder in relation to the State cadres of the said services constituted under sub-section (*2*) and in relation to the members of those services borne on the said cadres.

Provisions relating to other services.

40. (*1*) Every person who, immediately before the appointed day, in serving in connection with the affairs of the State of Maharashtra shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Maharashtra unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of the State of Vidarbha.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the State to which every person, referred to in sub-section (*1*), shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(*3*) Every person who is finally allotted under the provisions of sub-section (*2*) to the State of Maharashtra or Vidarbha shall, if he is not already serving therein, be made available for serving in that State from such date as may be agreed upon between the two State Governments, or, in default of such agreement, as may be determined by the Central Government.

(*4*) The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

(*a*) the division and integration of the services among the States of Maharashtra and Vidarbha; and

(*b*) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(*5*) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 41 apply.

(*6*) Nothing in this section shall be deemed to affect, on and from the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or of the State of Maharashtra or Vidarbha:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person provisionally or finally allotted to the State of Maharashtra or Vidarbha under this section shall not be varied to his disadvantage except with the previous approval of the Central Government.

Provisions as to continuance of officers in same post.

41. Every person who immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Maharashtra in any area which on that day falls within the State of Maharashtra or Vidarbha shall continue to hold the same post or office in that State and shall be deemed, on and from that day to have been duly appointed to the post or office by the Government of, or other appropriate authority in, that State:

Provided that nothing in this section shall be deemed to prevent a competent authority on and after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

Power of Central Government to give directions.

42. The Central Government may give such directions to the State Governments of Maharashtra and Vidarbha as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this part and the State Government shall comply with such directions.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

Amendment of article 371.

43. On and from the appointed day, in article 371 of the Constitution, in Clause (2),—

(*a*) for the words "the State of Maharashtra or Gujarat", the words "the State of Maharashtra, Vidarbha or Gujarat" shall be substituted; and

(*b*) in sub-clause (a), for the words "the rest of Maharashtra", the words "the rest of Maharashtra or Vidarbha" shall be substituted.

Territorial extent of laws.

44. The Provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Maharashtra shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

Power to adapt laws.

45. For the purpose of facilitating the application in relation to the State of Maharashtra or Vidarbha of any law made before the appointed day, the appropriate Government may, before the expiration of one year from that day by order, make such adaptations and modifications of law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law, the State Government.

Power to construe laws.

46. Notwithstanding that no provision or insufficient provisions has been made under section 45 for the adaptation of a law made before the appointed day, and court, tribunal or authority, required or empowered to enforce such law, may, for the purpose of facilitating its application in relation to the State of Maharashtra or Vidarbha, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to name authorities etc. for existing statutory functions.

47. The Government of the State of Vidarbha, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on and from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

48. Where, immediately before the appointed day, the existing State of Maharashtra is a party to any legal proceedings with respect to any property, rights or liabilities subject

to apportionment between the States of Maharashtra and Vidarbha under this Act, the State of Maharashtra or Vidarbha which succeeds to, or acquires a share in, that property or those rights or liabilities subject to apportionment between the States of Maharashtra and Vidarbha under this Act, the State of Maharashtra or Vidarbha which succeeds, to or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Maharashtra or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of pending proceedings.

49. (*1*) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within the State of Maharashtra shall, if it is a proceeding relating exclusively to the transferred territory, stand transferred to the corresponding court, tribunal, authority or officer in the State of Vidarbha.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section (*1*), it shall be referred to the High Court at Bombay and the decision of the High Court shall be final.

(*3*) In this section,—

(*a*) "proceeding" includes any suit, case or appeal; and

(b) "corresponding courts, tribunal, authority or officer" in the State of Vidarbha, means—

(*i*) the court, tribunal, authority or officer in which or before whom, the proceeding would have laid if it had been instituted after the appointed day; or

(*ii*) in case of doubt, such court, tribunal, authority or officer in the State, as may be determined after the appointed day by the Government of that State, or before the appointed day by day the Government of the existing State of Maharashtra, to be the corresponding court, tribunal, authority or officer.

Right of pleaders to practise in certain cases.

50. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Maharashtra shall for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Vidarbha.

Over-riding effect.

51. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to remove difficulties.

52. If any difficulty arises in giving effect to the provision of this Act, the President may by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for removing the difficulties.

Power to make rules.

53. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive session, and *i.e.*, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Vidarbha Region, which earlier consisted of eight districts and at present consisting of nine districts, was a part of old Madhya Pradesh and its capital was Nagpur. When the State of Maharashtra was formed, the people of these districts agitated for formation of a separate Vidarbha State because the people had apprehensions in their mind that if merged with Maharashtra the area will remain neglected and backward for ever.

Because of the agitation, several assurances were given to the people through the Nagpur Pact such as all round development of the region, reservation in technical education and proportionate fund for development. An assurance was also given through the amendment of the Constitution. Through this Constitutional amendment promise was given that separate Development Board would be constituted and through this Board tremendous all round development would take place.

After lapse of almost 35 years a Board was constituted but in a diluted form. Though the Board is functioning but remains almost ineffective for want of powers and funds.

There is a persistent demand from the people of Vidarbha region that if the development of this backward region has to take place then there is no alternative except formation of a separate State consisting of nine districts to be known as The State of Vidarbha so as to fulfil the hopes and aspirations of people who have been denied their due share within the State of Maharashtra.

The Bill seeks to achieve the above objective.

NEW DELHI;
September 2, 1996

BANWARILAL PUROHIT

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA.

[Copy of Letter No. 16017/8/96-SR, dated 9 May, 1997 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the State of Vidarbha Bill, 1997 by Shri Banwari Lal Purohit, Member of Parliament, has accorded his recommendation under articles 3, 117(1) and 274(1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

BILL NO. 73 OF 1997

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title.

2. Definitions.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

3. Formation of the State of Uttaranchal.

4. State of Uttar Pradesh and territorial divisions thereof.

5. Amendment of the First Schedule to the Constitution.

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

6. Amendment of the Fourth Schedule to the Constitution.

7. Allocation of sitting Members.

8. Filling up of vacancies.

HOUSE OF THE PEOPLE

9. Provisions as to existing House.

THE LEGISLATIVE ASSEMBLIES

10. Provision as to Legislative Assembly.

11. Allocation of sitting members.

12. Duration of Legislative Assembly of the State of Uttaranchal.

DELIMITATION OF CONSTITUENCIES

13. Allocation of seats in the House of People.

14. Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

CLAUSES

15. High Court for Uttaranchal.

16. Number of Judges in the High Court.

17. Jurisdiction of the High Court.

18. Practice and Procedure in the High Court.

19. Form of writs and other processes.

20. Powers of Judges.

21. Principal seat and other places of sitting of the High Court.

22. Transfer of pending proceedings.

PART V

AUTHORISATION OF EXPENDITURE OF AND DISTRIBUTION OF REVENUES

23. Distribution of Revenues.

24. Authorisation of Expenditure of the State of Uttaranchal.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

25. Application of Part.

26. Land and goods.

27. Treasury and bank balances.

28. Arrears of Taxes.

PART VII

29. Provisions relating to All India Services.

30. Provisions relating to other services.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

31. Power to adopt laws.

32. Power to construe laws.

33. Power to name authorities etc. for exercising statutory functions.

34. Legal proceedings.

35. Transfer of pending proceedings.

36. Power to make rules.

BILL NO. 73 OF 1997

A Bill to provide for the establishment of the State of Uttaranchal by reorganisation of the existing State of Uttar Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the State of Uttaranchal Act, 1997.

Definitions.

2. In this Act, unless the context otherwise requires—

(*a*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "article" means the article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950; 43 of 1950.

(*d*) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;

(*e*) "High Court" means the High Court of Judicature set up in terms of section 15 of this Act;

(*f*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(*g*) "notified order" means an order published in the Official Gazette;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day is a member of that House;

(*j*) "State of Uttar Pradesh" means the State with the same name, comprising territories referred to in section 4;

(*k*) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttaranchal;

(*l*) "treasury" includes a sub-treasury; and

(*m*) any reference to a district, tehsil, or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the first day of January, 1996.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of the State of Uttaranchal.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttaranchal comprising the following territories of the existing State of Uttar Pradesh, namely:—

"Almora, Nainital, Udham Singh Nagar, Pauri Garhwal, Tehri, Dehra Dun, Uttar Kashi, Chamoli and Pithoragarh districts and the Kumbha Mela Area of Haridwar district."

State of Uttar Pradesh and territorial divisions thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those mentioned in section 3.

Amendment of the First Schedule to the Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(*i*) in entry 13, under the heading "Territories" the following shall be added at the end, namely:—

"and excluding the territories specified in section 3 of the State of Uttaranchal Act, 1997"; and

(*ii*) after the entry 25, the following entry shall be inserted, namely:—

"26. Uttaranchal: the territories specified in section 3 of the State of Uttaranchal Act, 1997".

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

Amendment of the Fourth Schedule to the Constitution.

6. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) entries 15 to 27 shall be re-numbered as entries 16 to 28 respectively;

(*b*) after entry 14, the following entry shall be inserted, namely:—

"15. Uttaranchal.....3"

(*c*) in entry 16 as so re-numbered, for the figures "34", the figures "31" shall be substituted.

Allocation of sitting members.

7. (*1*) On and from the appointed day, the thirty-four sitting members of the Council of States representing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the State of Uttaranchal and Uttar Pradesh, as specified in the Fourth Schedule.

(*2*) The term of office of such sitting members shall remain unaltered.

Filling up of vacancies.

8. (*1*) As soon as may be after the appointed day, election shall be held to fill the vacancies existing on the appointed day in the seats allotted to the State of Uttaranchal.

(*2*) The terms of office of such one of the three members so elected, as the Chairman of the Council of States may determine by drawing lot, shall expire on the 2nd day of April, 1998, the term of office of the second member shall expire on the 2nd day of April, 2000, and the term of office of the third member shall expire on the 2nd day of April, 2002.

THE HOUSE OF THE PEOPLE

Provision as to the existing House.

9. Nothing in Part II shall be deemed to effect the constitution or duration of the existing House of the People or the extent of the constituency of any sitting member of that House.

THE LEGISLATIVE ASSEMBLIES

Provision as to Legislative Assembly.

10. (*1*) The number of seats as on the appointed day in the 'Legislative Assembly of the State of Uttaranchal' shall be seventy-five.

(*2*) In the Second Schedule to the Representation of the People Act, 1950, under the heading I-States, 43 of 1950.

(*i*) entries 24 and 25 shall be re-numbered as entries 25 and 26, respectively; and

(*ii*) before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

"24. Uttaranchal 75.....

Allocation of sitting members.

11. (*1*) Every sitting member of the Legislative Assembly of Uttar Pradesh elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boundaries to the State of Uttaranchal, shall, on and from that day, ceases to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttaranchal.

(*2*) All other sitting members of the Legislative Assembly of Uttar Pradesh shall continue to be members of Legislative Assembly of the State.

(*3*) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Uttaranchal and Uttar Pradesh shall be deemed to be duly constituted on the appointed day.

12. The period of five years referred to in clause (*1*) of article 172 shall, in the case of Legislative Assembly of Uttaranchal be deemed to have commenced on the date on which the Legislative Assembly of Uttar Pradesh actually commenced. Duration of Legislative Assembly of the State of Uttaranchal.

DELIMITATION OF CONSTITUENCIES

13. In the House of the People to be constituted after the commencement of this Act, there shall be allotted five seats to the State of Uttaranchal. Allocation of seats in the House of the People.

14. The total number of seats in the Legislative Assembly of Uttaranchal to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies, shall be seventy-five of which eight and one seat shall be reserved for Scheduled Castes and Scheduled Tribes, respectively. Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

15. On and from the appointed day, there shall be established a High Court for the State of Uttaranchal to be called the High Court of Uttaranchal. High Court for Uttaranchal.

16. There shall be such number of judges, being not less than five in number, as may be appointed by the President from time to time. Number of Judges.

17. On and from the appointed day, the High Court shall have, in respect of the territories comprised in the State of Uttaranchal, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Uttar Pradesh. Jurisdiction of the High Court.

18. The High Court shall adopt such practice and procedure, as it may deem necessary. Practice and Procedure in High Court.

19. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttar Pradesh shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttaranchal. Form of writs and other processes.

20. The law in force immediately before the appointed day with respect to the powers of Chief Justice, single Judges and division courts of the High Court of Uttar Pradesh shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttaranchal. Powers of Judges.

21. (*1*) The principal seat of the High Court shall be at Almora. Principal seat and other places of sitting of the High Court.

(*2*) The President may, after consultation with the Chief Justice of the High Court and the Governor of the State of Uttaranchal, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more places with the territories to which the jurisdiction of the High Court extends, other than the principal seat of the High Court, and for any matters connected therewith.

(*3*) Notwithstanding anything contained in sub-section (*2*), the judges and division courts of the High Court may also sit at such other places in the State of Uttaranchal as the Chief Justice may, with the approval of the Governor of the State of Uttaranchal, appoint.

Transfer of pending proceedings.

22. All proceedings, where the residents of the State of Uttaranchal are applicants and/or appellants, pending in the High Court of Uttar Pradesh immediately before the appointed day shall, on that day, stand transferred to the High Court of Uttaranchal.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Distribution of Revenues.

23. The President shall, by order, determine the grant-in-aid of the revenues of the State of Uttaranchal and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1985, in such manner as he thinks fit.

58 of 1957.
24 of 1979.
9 of 1962.

Authorisation of expenditure of the State of Uttaranchal.

24. The Governor of the existing State of Uttar Pradesh may, at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttaranchal as he deems necessary for any period not exceeding beyond the 31st day of March, 1998, pending the sanction of such expenditure by the legislative assembly of the State of Uttaranchal:

Provided that the Governor of Uttaranchal may, after the appointed day, authorise such further expenditure from the Consolidated Fund of the State of Uttaranchal as he deems necessary for the said period pending such sanction.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of part.

25. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Land and goods.

26. (*1*) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

(*a*) if within that State, pass to the successor State in whose territories they are situated, or

(*b*) if outside that State, pass to the State of Uttar Pradesh:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(*2*) The stores held for specific purposes, such as use of utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings of works are located.

(*3*) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(*4*) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1998, for territories of the existing State of Uttar Pradesh included respectively in each of the successor States.

(*5*) In this section the expression "land" includes immovable property of every kind and any rights in or over such property and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

27. The total of the cash balances in all treasuries of the existing State of Uttar Pradesh and the credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears of taxes.

28. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions relating to All India services.

29. (*1*) In this section, the expression "State Cadre"—

(*a*) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Uttar Pradesh, these shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttaranchal, in respect of each of these services.

(*3*) The initial strength and the composition of each of the State cadres for the States of Uttar Pradesh and Uttaranchal shall be such as the Central Government may, by order, determine before the appointed day.

(*4*) The members of each of the said services borne on the State cadre for the existing State of Uttar Pradesh immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Uttar Pradesh and Uttaranchal in such manner and with effect from such date or dates as the Central Government may, by order specify.

(*5*) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the all India Services Act, 1951 or the rules made thereunder in relation to the State cadres of the said services referred to in sub-section (*3*) and in relation to the members of these services borne on the said cadres.

Provisions relating to other services.

30. (*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in

sub-section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(3) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(4) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to—

(a) the division and integration of the services among the successor States; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(5) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 28 apply.

(6) Nothing in this section shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of Union or any State:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

Power to adapt Laws.

31. For the purpose of facilitating the application in relation to the State of Uttar Pradesh or the State of Uttaranchal of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law whether by way of repeal or amendment as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation:— In this section, the expression "appropriate Government" means—

(a) in respect of any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and

(b) in respect of any other law, in its application to a State, the State Government.

Power to construe laws.

32. (1) Notwithstanding that no provision or insufficient provision has been made under section 30 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or the State of Uttaranchal construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

(2) Any reference to the High Court of Uttar Pradesh in any law shall, unless the context otherwise requires, be construed, on and from the appointed day, as a reference to the High Court of Uttar Pradesh and Uttaranchal.

Power to name authorities, etc. for exercising statutory functions.

33. The Central Government, in respect of the Government of the State of Uttaranchal as regards the territories thereof, may, by notification in the Official Gazette, specify the authority, officer or person who, on and from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

34. Where immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this Act, shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings and the proceedings may continue accordingly.

Transfer of pending proceeding.

35. (*1*) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal authority or officer in any area which on that day falls within a successor State shall, if it is a proceeding relating exclusively to the territories which as from that day are the territories of another successor State stand transferred to the corresponding court, tribunal, authority or officer in that other State as the case may be.

(*2*) If any question arises as to whether any proceedings should stand transferred under sub-section (*1*), it shall be referred to the High Court, having jurisdiction in respect of the area in which the court, tribunal, authority or officer before which or whom such proceedings are pending on the appointed day, is functioning and the decision of the High Court shall be final.

(*3*) In this section:—

(*a*) "proceeding" includes any suit, case or appeal, and

(*b*) "corresponding court, tribunal, authority or officer" in a State means—

(*i*) the court, tribunal, authority or officer in that State in which or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(*ii*) in case of doubt, such court, tribunal, authority or officer in that State, as may be determined after the appointed day by the Government of the existing State of Uttar Pradesh, to be the corresponding court, tribunal, authority or officer.

Power to make rules.

36. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The people of Uttaranchal (nine hill districts of Uttar Pradesh and Kumbha Mela area of Haridwar district) have made significant contribution in the freedom struggle of India. The specific social and economic problems of the people of this region require special treatment in democratic and independent India. The problems of the people of this region have been accumulating and the people continue to suffer.

The people of this region are not getting justice properly because the present administration is not acquainted with the unique problems faced by the people. Moreover, the people of hilly regions have to travel a long distance to sort out their problems.

The creation of separate States, such as Himachal Pradesh, Nagaland, Arunachal Pradesh and others in Northern and Eastern India, which were similarly situated, and where population is even less than those of the nine hill districts and Kumbha Mela area of Haridwar district of Uttar Pradesh has proved that such administrative changes have helped in achieving sustained growth and development of the concerned areas.

The two successive Assemblies of Uttar Pradesh also felt this need and hence recommended in clear terms for creation of a separate State consisting of the area covered under this Bill. The Prime Minister of present Government had made a declaration on 15 August, 1996 for the creation of Uttarakhand State and in October, 1996 an assurance for the creation of a separate Uttaranchal State during the current financial year was also given to the people of hilly region. It has awakened high hopes in the people of Uttaranchal region.

The formation of a separate hill State of Uttaranchal is essential to ensure a balanced development of this region in all its dimensions so that the rich intellectual potential of the people of this region and even richer material resources available with unique advantage of environment are duly exploited by an appropriate democratic set-up to make optimum use of creative energies of the people of Uttaranchal. It is, therefore, proposed to provide for the establishment of the State of Uttaranchal with its legislature, executive and the judiciary like other Indian States in accordance with the Constitution of India.

Hence this Bill.

NEW DELHI;
November 6, 1996.

BACHI SINGH RAWAT

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 12012/3/97-SR, dated 9 May, 1997 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

. The President, having been informed of the subject matter of the State of Uttaranchal Bill, 1997 by Shri Bachi Singh Rawat, Member of Parliament, has accorded his recommendation under articles 3, 117(1) and 274 (1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

BILL NO. 75 OF 1997

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title.

2. Definitions.

PART II

3. Formation of the State of Vananchal.

4. State of Bihar and territorial divisions thereof.

5. Amendment of the First Schedule to the Constitution.

PART III

REPRESENTATION IN THE LEGISLATURES

6. Amendment of the Fourth Schedule to the Constitution.

7. Allocation of sitting members.

HOUSE OF THE PEOPLE

8. Provisions as to the existing House.

THE LEGISLATIVE ASSEMBLY

9. Provisions as to Legislative Assembly.

10. Allocation of sitting members.

11. Duration of Legislative Assembly of the State of Vananchal.

DELIMITATION OF CONSTITUENCIES

12. Allocation of seats in the House of the People.

13. Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

14. High Court for Vananchal.

15. Appointment of Judges.

16. Jurisdiction of the High Court.

CLAUSES

17. Practice and Procedure in Vananchal High Court.

18. Forms of writs and other processes.

19. Powers of Judges.

20. Principal seat and other places of sitting of the High Court.

21. Transfer of pending proceedings.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

22. Distribution of Revenues.

23. Authorisation of expenditure of the State of Vananchal.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

24. Application of Part.

25. Land and goods.

26. Treasury and bank balances.

27. Arrears of taxes.

PART VII

PROVISIONS RELATING TO SERVICES

28. Provisions relating to All India Services.

29. Provisions relating to other services.

30. Establishment of Public Service Commission for the State of Vananchal.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

31. Power to adapt laws.

32. Power to construe laws.

33. Power to name authorities, etc. for exercising statutory functions.

34. Legal proceedings.

35. Transfer of pending proceedings.

36. Power to make rules.

BILL NO. 75 OF 1997

A Bill to provide for the establishment of the State of Vananchal by reorganisation of the existing State of Bihar and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the State of Vananchal Act, 1997. Short title.

2. In this Act, unless the context otherwise requires— Definitions.

(*a*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "article" means the article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of the People Act, 1950; 43 of 1950.

(*d*) "existing State of Bihar" means the State of Bihar as existing immediately before the appointed day;

(*e*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Bihar;

(*f*) "notified order" means an order published in the Official Gazette;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Bihar, means a person who immediately before the appointed day is a member of that House;

(*i*) "State of Bihar" means the State with the same name, comprising territories referred to in section 4;

(*j*) "successor State" in relation to the existing State of Bihar, means the State of Bihar or Vananchal;

(*k*) "treasury" includes a sub-treasury; and

(*l*) any reference to a district, tehsil, or other territorial division of the existing State of Bihar shall be construed as a reference to the area comprised within that territorial division on the first day of January, 1996.

PART II

REORGANISATION OF THE STATE OF BIHAR

Formation of the State of Vananchal.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Vananchal comprising the following territories of the existing State of Bihar, namely:—

"Kodarma, Giridih, Hazaribagh, Dhanbad, Chatra, Palamau, Lohardaga, Gumla, Ranchi, East Shinghbhum, West Shinghbhum, Bokaro, Deoghar, Godda, Dumka, Sahebganj, Garwa, Pakur.".

State of Bihar and territorial divisions thereof.

4. On and from the appointed day, the State of Bihar shall comprise the territories of the existing State of Bihar other than those mentioned in section 3.

Amendment of the First Schedule to the Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(*i*) in entry 3, under the heading "Territories", the following shall be added at the end, namely:—

"and excluding the territories, specified in section 3 of the State of Vananchal Act, 1997", and

(*ii*) after the entry 25, the following entry shall be inserted, namely:—

"26. Vananchal:

The territories specified in section 3 of the State of Vananchal Act, 1997".

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

Amendment of the Fourth Schedule to the Constitution.

6. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) in entry 3, for the figures "22", the figures "17" shall be substituted;

(*b*) entries 16 to 27 shall be re-numbered as entries 17 to 28 respectively; and

(*c*) after entry 15, the following entry shall be inserted, namely:—

"16. Vananchal 5"

Allocation of sitting members.

7. (*1*) On and from the appointed day, the twenty-two sitting members of the Council of States representing the State of Bihar shall be deemed to have been elected to fill the seats allotted to the States of Vananchal and Bihar as specified in the Fourth Schedule.

(*2*) The term of office of such sitting members shall remain unaltered.

THE HOUSE OF THE PEOPLE

Provision as to the existing House.

8. Nothing in Part II shall be deemed to affect the constitution or duration of the existing House of the People or the extent of the constituency of any sitting member of that House.

THE LEGISLATIVE ASSEMBLIES

Provision as to Legislative Assembly.

9. (*1*) The number of seats as on the appointed day in the Legislative Assembly of the State of Vananchal shall be seventy-five.

43 of 1950.

(*2*) In the Second Schedule to the Representation of People Act, 1950, under the heading 'I-State':—.

(*i*) entry 25 shall be re-numbered as entry 26; and

(*ii*) before entry 26 as so re-numbered, the following entry shall be inserted, namely:—

"25. Vananchal 75

Allocation of sitting members.

10. (*1*) Every sitting member of the Legislative Assembly of Bihar elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boundaries to the State of Vananchal, shall, on and from that day, cease to be a member of the Legislative Assembly of Bihar and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Vananchal.

(*2*) All other sitting members of the Legislative Assembly of Bihar shall continue to be members of Legislative Assembly of the State.

(*3*) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Vananchal and Bihar shall be deemed to be duly constituted on the appointed day.

Duration of Legislative Assembly of the State of Vananchal.

11. The period of five years referred to in clause (1) of article 172 shall, in the case of Legislative Assembly of Vananchal be deemed to have commenced on the date on which the Legislative Assembly of Bihar actually commenced.

DELIMITATION OF CONSTITUENCIES

Allocation of seats in the House of the People.

12. In the House of the People to be constituted after the commencement of this Act, there shall be allotted fourteen seats to the State of Vananchal.

Allocation of seats in the Legislative Assembly.

13. The total number of Seats in the Legislative Assembly of Vananchal to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies, shall be one hundred of which forty one seats shall be reserved for Scheduled Castes and Scheduled Tribes.

PART IV

HIGH COURT

High Court for Vananchal.

14. On and from the appointed day, there shall be established a High Court for the State of Vananchal to be called the High Court of Vananchal.

Number of judges.

15. There shall be such number of judges as may be appointed by the President from time to time.

Jurisdiction of the High Court.

16. On and from the appointed day, the High Court shall have, in respect of the territories comprised in the State of Vananchal, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Bihar.

Practice and Procedure in High Court.

17. The High Court shall adopt such practice and procedure, as it may deem necessary.

Form of writs and other processes.

18. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued and awarded by the High Court of Bihar shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Vananchal.

Powers of Judges.

19. The law in force immediately before the appointed day with respect to the powers of Chief Justice, single Judges and division courts of the High Court of Bihar shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Vananchal.

Principal seat and other places of sitting of the High Court.

20. (*1*) The principal seat of the High Court shall be at Ranchi.

(*2*) The President may, after consultation with the Chief Justice of the High Court and the Governor of the State of Vananchal by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more places with the territories to which the jurisdiction of the High Court extends, other than the principal seat of the High Court, and for any matters connected therewith.

(*3*) Notwithstanding anything contained in sub-section (2), the judges and division courts of the High Court may also sit at such other places in the State of Vananchal as the Chief Justice may, with the approval of the Governor of the State of Vananchal appoint.

Transfer of pending proceedings.

21. All proceedings, where the residents of the State of Vananchal are applicants and/or appellants, pending in the High Court of Bihar immediately before the appointed day shall, on that day, stand transferred to the High Court of Vananchal.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Distribution of Revenues.

22. The President shall, by order, determine the grant-in-aid of the revenues of the State of Vananchal and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1985, in such manner as he thinks fit. 58 of 1957. 24 of 1979. 59 of 1962.

Authorisation of expenditure of the State of Vananchal.

23. The Governor of the existing State of Bihar may, at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Vananchal as he deems necessary for any period not exceeding beyond the 31st day of March, 1998, pending the sanction of such expenditure by the legislative assembly of the State of Vananchal:

Provided that the Governor of Vananchal may, after the appointed day, authorise such further expenditure from the Consolidated Fund of the State of Vananchal as he deems necessary for the said period pending such sanction.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of part.

24. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Bihar immediately before the appointed day.

Land and goods.

25. (*1*) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Bihar shall,—

(*a*) if within that State, pass to the successor State in whose territories they are situated, or

(*b*) if outside that State, pass to the State of Bihar:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(*2*) The stores held for specific purposes, such as use of utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings of works are located.

(*3*) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Bihar shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(*4*) Any other unissued stores of any class in the existing State of Bihar shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1998, for territories of the existing State of Bihar included respectively in each of the successor States.

(*5*) In this section the expression "land" includes immovable property of every kind and any rights in or over such property and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

26. The total of the cash balances in all treasuries of the existing State of Bihar and the credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears of taxes.

27. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions relating to All India services.

28. (*1*) In this Section, the expression "State Cadre"—

(*a*) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of cadres of the Indian Administrative Service and the Indian Police

Service for the existing State of Bihar, these shall, on and from the appointed day, be two separate cadres, one for the State of Bihar and the other for the State of Vananchal, in respect of each of these services.

(*3*) The initial strength and the composition of each of the State cadres for the States of Bihar and Vananchal shall be such as the Central Government may, by order, determine before the appointed day.

(*4*) The members of each of the said services borne on the State cadre for the existing State of Bihar immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Bihar and Vananchal in such manner and with effect from such date or dates as the Central Government may, by order specify.

(*5*) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the All India Services Act, 1951 or the rules made thereunder in relation to the State cadres of the said services referred to in sub-section (*3*) and in relation to the members of these services borne on the said cadres.

Provisions relating to other services.

29. (*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Bihar shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Bihar unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in sub-section (*1*) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(*3*) Every person who is finally allotted under the provisions of sub-section (*2*) to a successor State shall, if he is not already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(*4*) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to—

(*a*) the division and integration of the services among the successor States; and

(*b*) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(*5*) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 28 apply.

(*6*) Nothing in this section shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to sub-section (*1*) or sub-section (*2*) shall not be varied to his disadvantage except with the previous approval of the Central Government.

Establishment of Public Service Commission for the State of Vananchal.

30. On and from the appointed day, there shall be established a Public Service Commission for the State of Vananchal.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

Power to adapt Laws.

31. For the purpose of facilitating the application in relation to the State of Bihar or the State of Vananchal of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law whether by way of repeal or amendment as may be necessary or expedient, and thereupon every such law shall have effect subject to the

adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation:—In this section, the expression "appropriate Government" means—

(*a*) in respect of any law relating to a matter enumerated in the Union List in the seventh Schedule to the Constitution, the Central Government; and

(*b*) in respect of any other law, in its application to a State, the State Government.

Power to construe laws.

32. (*1*) Notwithstanding that no provision or insufficient provision has been made under section 30 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Bihar or the State of Vananchal construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

(*2*) Any reference to the High Court of Bihar in any law shall, unless the context otherwise requires, be construed, in and from the appointed day, as a reference to the High Court of Vananchal.

Power to name authorities, etc. for exercising statutory functions.

33. The Central Government, in respect of the Government of the State of Vananchal as regards the territories thereof, may, by notification in the Official Gazette, specify the authority officer or person who on and from the appointed day, shall be competent to exercise such function exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

34. Where immediately before the appointed day, the existing State of Bihar is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this Act shall be deemed to be substituted for the existing State of Bihar or added as a party to those proceedings and the proceedings may continue accordingly.

Transfer of pending proceedings.

35. (*1*) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within a successor State shall, if it is a proceeding relating exclusively to the territories which as from that day are the territories of another successor State stand transferred to the corresponding court, tribunal, authority or officer in that other State as the case may be.

(*2*) If any question arises as to whether any proceedings should stand transferred under sub-section (*1*), it shall be referred to the High Court, having jurisdiction in respect of the area in which the court, tribunal, authority or officer before which or whom such proceedings are pending on the appointed day, is functioning and the decision of the High Court shall be final.

(*3*) In this section:—

(*a*) "proceeding" includes any suit, case or appeal, and

(*b*) "corresponding court, tribunal, authority or officer" in a State means—

(*i*) the court, tribunal, authority or officer in that State in which or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(*ii*) in case of doubt, such court, tribunal, authority or officer in that State, as may be determined after the appointed day by the Government of the existing State of Bihar, to be the corresponding court, tribunal, authority or officer.

Power to make rules.

36. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The people of Vananchal area comprising a population of two and a half crore, living in eighteen districts of Bihar which is rich in forest and mineral resources, have made significant contribution to the freedom struggle of India.

The separate social, cultural and economic problems of the people of this region require special attention because despite fifty years of independence and implementation of several development programmes, seventy-five per cent. of the native inhabitants are living below poverty line. The economic, political and educational exploitation of the people is still continuing unabated with the result that the problems and sufferings of the people of this region are on the increase. Further, about 10,500 problem villages have not been provided with drinking water facilities even after a lapse of 50 years. There is a great injustice in the matter of employment. Every year, more than 20,000 people migrate from this region to Haryana, Punjab, Delhi, Calcutta, Surat, Mumbai and other places in search of employment. Thus there is a need to create a new State of Vananchal to materialise the dreams of "Virsamunda".

The creation of the new State has become imperative for tackling the problems of exploitation of natural resources and to check the exploitation of the poor and illiterate people, majority of whom live in jungles. There is a need to change the indifferent attitude being shown to the people of this region for economic progress of the area as also for the proper division of assets and to guarantee employment to atleast one or two members of every family. The autonomous Jharkhand Council which was created for the development of this area has also not met with much success.

Considering the unique problems faced by the people of Vananchal region and in order to pave way for the balanced development of the region, it is necessary that a separate State be established without any further delay.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 19, 1996.

R.L.P. VERMA

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 12012/4/97—SR, dated 9 May, 1997 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the State of Vananchal Bill, 1997 by Shri R.L.P. Verma, Member of Parliament, has accorded his recommendation under articles 3, 117(1) and 274(1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

BILL NO. 79 OF 1997

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES
1. Short title.
2. Definitions.

PART II

REORGANISATION OF THE STATE OF MAHARASHTRA

3. Formation of the State of Vidarbha.
4. State of Maharashtra and territorial division thereof.
5. Amendment of the First Schedule to the Constitution.
6. Saving powers of Government.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

7. Amendment of the Fourth Schedule to the Constitution.
8. Allocation of sitting members.
9. Filling up of vacancies.
10. Provision as to the sitting members.

The House of the People

11. Amendment of the First Schedule to Act No. 43 of 1950.
12. Amendment of Schedule I to Delimitation order.
13. Provision as to sitting members.

The Legislative Assemblies

14. Strength of Legislative Assemblies and amendment of Second Schedule to Act No. 43 of 1950.
15. Amendment of Schedule II to Delimitation order.
16. Allocation of sitting members.
17. Duration of Legislative Assemblies.
18. Provisions as to Speaker and Deputy Speaker.
19. Rules of Procedure.

The Legislative Council

20. Provision as to Legislative Council.
21. Provision as to sitting members.

CLAUSES

22. Provision as to Chairman and Deputy Chairman.
23. Amendment of the Scheduled Castes Order.
24. Amendment of the Scheduled Tribes Order.

PART IV

HIGH COURT

25. High Court for Vidarbha.
26. Judges of High Court of Vidarbha.
27. Jurisdiction of High Court of Vidarbha.
28. Provisions as to Advocates.
29. Practice and Procedure in High Court of Vidarbha.
30. Custody of seal of High Court of Vidarbha.
31. Form of writs and other processes.
32. Powers of Judges.
33. Procedure as to appeals to Supreme Court.
34. Transfer of proceedings from High Court at Bombay to High Court of Vidarbha.
35. Right to appear or to act in proceedings transferred to High Court of Vidarbha.
36. Interpretation.
37. Savings.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

38. Authorisation of expenditure of the State of Vidarbha.
39. Reports relating to accounts of existing State of Maharashtra.
40. Allowances and privileges of Governor of Vidarbha.
41. Distribution of revenues.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

42. Application of Part.
43. Land and goods.
44. Treasury and bank balances.
45. Arrears of taxes.
46. Right to recover loans and advances.
47. Credits in certain funds.
48. Assets and liabilities of State undertakings.
49. Public debt.
50. Refund of taxes collected in excess.
51. Deposits, etc.
52. Provident Fund.
53. Pensions.
54. Contracts.
55. Liability in respection of actionable wrong.
56. Liability as guarantor.
57. Items in suspense.
58. Residuary provisions.
59. Apportionment of assets or liabilities by agreement.
60. Power of Central Government to order allocation or adjustment in certain cases.
61. Certain expenditure to be charged on the Consolidated Fund.

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

62. Provisions as to certain corporations.

CLAUSES

63. Continuance of arrangements in regard to generation and supply of electric power and supply of water.
64. Provisions as to Maharashtra State Financial Corporation.
65. Amendment of Act No. 64 of 1950.
66. Amendment of Act No. 38 of 1926.
67. Amendment of Act No. 6 of 1942.
68. General Provisions as to statutory Corporations.
69. Vidarbha Development Board.
70. Temporary provisions as to continuance of certain existing road transport permits.
71. Special provision relating to retrenchment compensation in certain cases.
72. Special provision as to income-tax.
73. Continuance of facilities in certain State institutions.

PART VIII

PROVISIONS AS TO SERVICES

74. Provisions relating to All-India services.
75. Provisions relating to other services.
76. Provisions as to continuance of officers in same post.
77. Power of Central Government to give directions.
78. Provisions as to Maharashtra Public Service Commission.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

79. Amendment of article 371 of the Constitution.
80. Amendment of Act No. 37 of the 1956.
81. Territorial extent of laws.
82. Power to adapt laws.
83. Power to construe laws.
84. Power to name authorities, etc. for exercising statutory functions.
85. Legal proceedings.
86. Transfer of pending proceedings.
87. Right of pleaders to practise in certain cases.
88. Effect of provisions of the Act inconsistent with other laws.
89. Power to remove difficulties.
90. Power to make rules.

THE FIRST SCHEDULE
THE SECOND SCHEDULE
THE THIRD SCHEDULE
THE FOURTH SCHEDULE
THE FIFTH SCHEDULE
THE SIXTH SCHEDULE

BILL NO. 79 OF 1997

A Bill to provide for the formation of the State of Vidarbha by reorganisation of the existing State of Maharashtra and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the Maharashtra Reorganisation Act, 1997.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means the 26th day of January, 1998.

(*b*) "article" means an article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as is assigned to them in the Representation of the People Act, 1950; 43 of 1950.

(*d*) "existing State of Maharashtra" means the State of Maharashtra as existing immediately before the appointed day;

(*e*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or in any part of the existing State of Maharashtra;

(*f*) "notified order" means an order published in the Offical Gazette;

(*g*) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Maharashtra, means a person who, immediately before the appointed day, is a member of that House;

(*h*) "transferred territory" means the territories which on and from the appointed day are territories of the State of Vidarbha;

(*i*) "treasury" includes a sub-treasury; and

(*j*) any reference to a district, taluka, village or other territorial division of the existing State of Maharashtra shall be construed as a reference to the area comprised within that territorial division, as recognised for land revenue purposes, on the 1st day of April, 1995.

PART II

REORGANISATION OF THE STATE OF MAHARASHTRA

Formation of the State of Vidarbha.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Vidarbha comprising the following territories of the existing State of Maharashtra namely:—

"Nagpur, Amaravati, Yavatmal, Akola, Buldhana, Wardha, Chandrapur, Gadchiroli and Bhandra district."

State of Maharashtra and territorial division thereof.

4. On and from the appointed day, the State of Maharashtra shall comprise the territories of the existing State of Maharashtra other than those mentioned in section 3.

Amendment of the First Schedule to the Constitution.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading

"I. THE STATES",—

(*i*) in entry 8, under the heading "Territories", the following shall be added at the end, namely:—

"and the territories referred to in section 3 of the Maharashtra Reorganisation Act, 1997"; and

(*ii*) after entry 25, the following entry shall be added, namely:—

"26. Vidarbha The territories specified in section 3 of the Maharashtra Reorganisation Act, 1997."

Saving powers of Government.

6. Nothing in the foregoing provisions of this Part shall be deemed to affect the power of the Government of Maharashtra or Vidarbha to alter, on and from the appointed day, the name, extent or boundaries of any district, taluka or village in that State.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

Amendment of the Fourth Schedule to the Constitution.

7. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) entries 8 to 27 shall be renumbered as entries 9 to 28, respectively;

(*b*) after entry 7, the following entry shall be inserted, namely:—

"8. Vidarbha 5.";

(c) In entry 11 as so re-numbered, for the figures "19", the figures "15" shall be substituted; and

(*d*) for the figures "233", the figures "234" shall be substituted.

Allocation of sitting members.

8. *(1)* On and from the appointed day, such of the fifteen sitting members of the Council of States representing the existing State of Maharashtra, as the Chairman of the Council of States may, by order specify, shall be deemed to have been duly elected to the Council of States to represent the State of Maharashtra.

(2) On and from the appointed day, the remaining four sitting members of the Council of States representing the existing State of Maharashtra shall be deemed to have been duly elected to the Council of States to represent the State of Vidarbha.

Filling up of vacancies.

9. As soon as may be after the appointed day, elections shall be held to fill the additional seat allotted in the Council of States to the State of Vidarbha as well as to fill the vacancies, including casual vacancies, if any, in the seats allotted in the Council of States to the State of Vidarbha.

Provision as to the sitting members.

10. The terms of office of the sitting members and of the members chosen to fill the casual vacancies, if any, in the Council of States to represent the State of Vidarbha shall remain unaltered.

The House of the People

Amendment of the First Schedule to Act No. 43 of 1950.

11. *(1)* On and from the appointed day, there shall be allotted 37 seats to the State of Maharashtra and 11 seats to the State of Vidarbha in the House of the People.

(2) In the First Schedule to the Representation of the People Act, 1950,—

(i) in entry 13, for the figures, "48" and the figure "3" under columns 5 and 6, respectively, the figures "37" and the figure "2" shall be substituted;

(ii) entry 25 shall be re-numbered as entry 26 and before entry 26, as so re-numbered, the following entry and figures under columns 5 and 6 thereof shall be inserted, namely:—

"25. Vidarbha. 11 1 —".

Amendment of Schedule I to Delimitation Order.

12. On and from the appointed day, the Schedule I to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended accordingly.

Provision as to sitting members.

13. Every sitting member of the House of the People representing a constituency which, on the appointed day, by virtue of the provisions of section 11, stands allotted, with or without alteration of boundaries, to the State of Maharashtra or to the State of Vidarbha shall be deemed to have been duly elected to the House of the People by that constituency as so allotted.

The Legislative Assemblies

Strength of Legislative Assemblies and amendment of Second Schedule to Act No. 43 of 1950.

14. *(1)* On and from the appointed day, the total number of seats to be filled by persons chosen by direct election in the Legislative Assemblies of Maharashtra and Vidarbha shall be 222 and 66, respectively.

(2) In the Second Schedule to the Representation of the People Act, 1950, —

(i) in entry 13, for the figures "288", "18" and "22" under columns 5, 6 and 7, respectively, the figures "222", "15" and "17" shall be substituted;

(ii) entry 25 shall be re-numbered as entry 26 and before entry 26, as so re-numbered, the following entry and figures under columns 5, 6 and 7 thereof shall be inserted, namely:—

"25. Vidarbha.....66 3 5".

Amendment of Schedule II to Delimitation order.

15. On and from the appointed day, the Schedule II to the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, shall stand amended accordingly.

Allocation of sitting members.

16. *(1)* Every sitting member of the Legislative Assembly of existing State of Maharashtra representing a constituency which on the appointed day, by virtue of the provisions of section 14, stands transferred, with or without alteration of boundaries, to the State of Madhya Bharat shall, on and from that day, cease to be a member of the Legislative Assembly of Maharashtra and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Vidarbha.

(2) All other sitting members of the Legislative Assembly of the existing State of Maharashtra shall continue to be members of the Legislative Assembly of Maharashtra.

(3) The sitting member of the Legislative Assembly of Maharashtra nominated to that Assembly under article 333 of the Constitution to represent the Anglo-Indian community shall continue to represent the Community in the Legislative Assembly of Maharashtra.

Duration of Legislative Assemblies.

17. The period five years referred to in clause *(1)* of article 172 of the Constitution shall, in the case of the Legislative Assembly of Maharashtra or Vidarbha, be deemed to have commenced on the date on which the Legislative Assembly of existing State of Maharashtra actually commenced.

Provisions as to Speaker and Deputy Speaker.

18. *(1)* The persons who immediately before the appointed day are the Speaker and Deputy Speaker of the Legislative Assembly of the existing State of Maharashtra shall continue to be the Speaker and the Deputy Speaker, respectively, of the Legislative Assembly of Maharashtra.

(2) As soon as may be after the appointed day, the Legislative Assembly of Vidarbha shall choose two members of that Assembly to be respectively the Speaker and the Deputy Speaker of that Assembly and until they are so chosen, the duties of the office of the Speaker shall be performed by such member of that Assembly, as the Governor may appoint.

Rules of Procedure.

19. The rules of procedure and conduct of business as in force immediately before the appointed day with respect to the Legislative Assembly of the existing State of Maharashtra shall, until rules are made under clause *(1)* of article 208, have effect in relation to the Legislative Assembly of Vidarbha subject to such modifications and adaptations as may be made therein by the Speaker thereof.

The Legislative Council

Provisions as to Legislative Council.

20. *(1)* On and from the appointed day, there shall be 55 seats in the Legislative Council of Maharashtra.

(2) In the Third Schedule to the Representation of the People Act, 1950,

(i) in entry 5, for the figures "78", "22", "7", "7", "30" and "12", the figures "55", "16", "5", "5", "22" and "7", respectively, shall be substituted.

Provisions as to sitting members.

21. *(1)* On the appointed day,—

(a) such of the sitting members of the Legislative Council of Maharashtra, as the Chairman of that Council after obtaining the views of Election Commission may decide, shall cease to be the members of that council;

(b) all other sitting members of the Legislative Council of Maharashtra shall continue to be members of that Council.

(2) The terms of office of the members referred to in clause (b) of sub-section (1) shall remain unaltered.

Provision as to Chairman and Deputy Chairman.

22. The persons who immediately before the appointed day are the Chairman and the Deputy Chairman of Legislative Council of Maharashtra shall continue to be the Chairman and the Deputy Chairman, respectively, of the Legislative Council of Maharashtra.

Scheduled Castes and Scheduled Tribes Orders

Amendment of the Scheduled Castes Order.

23. On and from the appointed day, the Constitution (Scheduled Castes) Order, 1950 shall stand amended as directed in the First Schedule.

Amendment of the Scheduled Tribes Order.

24. On and from the appointed day, the Constitution (Scheduled Tribes) Order, 1950 shall stand amended as directed in the Second Schedule.

PART IV

HIGH COURT

High Court for Vidarbha.

25. (1). On and from the appointed day, there shall be a separate High Court for the State of Vidarbha at (hereinafter referred to as the High Court of Vidarbha) and the High Court at Bombay shall continue to be the High Court for the State of Maharashtra.

(2) The principal seat of the High Court of Vidarbha shall be at Nagpur.

(3) Notwithstanding anything contained in sub-section (2), the Judges and division courts of the High Court of Vidarbha may also sit at such other place or places in the State of Vidarbha, as the Chief Justice may, with the approval of the Governor of Vidarbha, appoint.

Judges of High Court of Vidarbha.

26. (1) Such of the Judges of the High Court at Bombay holding office immediately before the appointed day, as may be determined by the President, shall cease to be judges of the High Court at Bombay and become Judges of the High Court of Vidarbha.

(2) The persons who by virtue of sub-section (1) become Judges of the High Court of Vidarbha shall except in the case where any such person is appointed to be the Chief Justice of that High Court, rank in that Court according to the seniority of their respective appointments as Judges of the High Court at Bombay.

Jurisdiction of High Court of Vidarbha.

27. On and from the appointed day the High Court of Vidarbha shall have, in respect of any part of the territories included in the State of Vidarbha, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those parts of the said territories by the High Court at Bombay.

Provisions as to advocates.

28. (1) The High Court of Vidarbha shall have the power to approve, admit, enrol, remove and suspend advocates and to make rules with respect to advocates as are under the law in force immediately before the appointed day, exercisable by the High Court at Bombay.

(2) The right of audience in the High Court of Vidarbha shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Bombay:

Provided that subject to any rule made or direction given by the High Court of Vidarbha in the exercise of the powers conferred by this section, any person who immediately before the appointed day is an advocate entitled to practise in the High Court at Bombay shall be entitled to practise as an advocate in the High Court of Vidarbha.

Practice and Procedure in High Court of Vidarbha.

29. Subject to the provisions of this Part the law in force immediately before the appointed day with respect to practice and procedure in the High Court at Bombay shall with necessary modifications, apply in relation to the High Court of Vidarbha and accordingly, the High Court of Vidarbha shall have all such powers to make rules and orders with respect to practice and procedure, as are immediately before the appointed day, exercisable by the High Court of Bombay.

Custody of seal of High Court of Vidarbha.

30. The law in force immediately before the appointed day with respect to the custody of the seal of the High Court at Bombay shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of Vidarbha.

Form of writs and other processes.

31. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Bombay shall with necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Vidarbha.

Powers of Judges.

32. The law in force immediately before the appointed day relating to the powers of the Chief Justice, single Judges and division courts, of the High Court at Bombay and with respect to all matters, ancillary to the exercise of those powers shall, with necessary modifications, apply in relation to the High Court of Vidarbha.

Procedure as to appeals to Supreme Court.

33. The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court at Bombay and the Judges and division courts thereof shall with necessary modifications, apply in relation to the High Court of Vidarbha.

Transfer of proceedings from High Court at Bombay to High Court of Vidarbha.

34. *(1)* Except as hereinafter provided, the High Court at Bombay shall on and from the appointed day, have no jurisdiction in respect of the transferred territories.

(2) All such proceedings pending in the High Court at Bombay immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court, having regard to the place of the cause of action and other circumstances, to be proceedings which ought to be heard and decided by the High Court of Vidarbha shall, as soon as may be, after such certification, be transferred to the High Court of Vidarbha.

(3) Notwithstanding anything contained in sub-sections *(1)* and *(2)* of this section or in section 27 but save as hereinafter provided, the High Court at Bombay shall have, and the High Court of Vidarbha shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Bombay before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court at Bombay, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Vidarbha, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(4) any order made by the High Court at Bombay,—

(a) before the appointed day in any proceedings transferred to the High Court of Vidarbha by virtue of sub-section *(2)*, or

(b) in any proceedings with respect to which the High Court at Bombay retains jurisdiction by virtue of sub-section *(3)*, shall have effect not only as an order of that Court but also as an order of the High Court of Vidarbha.

Right to appear or to act in proceedings transferred to High Court of Vidarbha.

35. Any person, who immediately before the appointed day, is an advocate entitled to practise in the High Court at Bombay and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Vidarbha under section 34 shall have the right to appear or to act, as the case may be, in the High Court of Vidarbha in relation to those proceedings.

Interpretation.

36. For the purposes of sections 34 and 35—

(a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revision and petitions for writs; and

(b) references to a High Court shall be construed as including references to a judge, or division court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgement or decree passed or made by that court or Judge.

Savings.

37. Nothing in this Part shall affect the application to the High Court of Vidarbha of any provisions of the Constitution, and this Part shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by Legislature of the State of Vidarbha or other authority having power to make such provisions.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of expenditure of the State of Vidarbha.

38. The Governor of the existing State of Maharashtra may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Vidarbha as he deems necessary for a period of not more than six months beginning with the appointed day pending the sanction of such expenditure by the Legislative Assembly of the State of Vidarbha:

Provided that the Governor of Vidarbha may, after the appointed day, authorise such further expenditure as he deems necessary from Consolidated Fund of the State of Vidarbha for any period not extending beyond the said period of six months.

Reports relating to accounts of existing State of Maharashtra.

39. *(1)* The reports of the Comptroller and Auditor-General of India referred to in clause (2) of article 151 relating to the accounts of the existing State of Maharashtra in respect of any period prior to the appointed day shall be submitted to the Governors of each of the States of Maharashtra and Vidarbha who shall cause them to be laid before the Legislative Assemblies of their respective States.

(2) The President may, by order,—

(a) declare any expenditure incurred out of the Consolidated Fund of the existing State of Maharashtra on any service in respect of any period prior to the appointed day during the financial year 1997-98 or in respect of any earlier financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section *(1)* to have been duly authorised, and

(b) provide for any action to be taken on any matter arising out of the said reports.

Allowances and privileges of Governor of Vidarbha.

40. The allowances and privileges of the Governor of Vidarbha shall, until provision in that behalf is made by Parliament by law under clause *(3)* of article 158, be such as the President may, by order, determine.

Distribution of Revenues.

41. The President shall, by order, determine the grants-in-aid of the revenues of the State of Vidarbha and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenue) Order, 1985 in such manner as he thinks fit.

58 of 1957
24 of 1979.
9 of 1962

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of Part.

42. The provisions of this Part shall apply in relation to the apportionment of the assets and liabilities of the State of Maharashtra immediately before the appointed day.

Land and goods.

43. *(1)* Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Maharashtra shall,—

(a) if within the transferred territory, pass to the State of Vidarbha, and

(b) if outside such transferred territories, remain the property of the State of Maharashtra:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the State of Maharashtra or, as the case may be, to the State of Vidarbha, accordingly.

(2) Any such stores of the existing State of Maharashtra as are referred to in the Third Schedule shall be divided between the States of Maharashtra and Vidarbha in the manner specified therein.

(3) In this section the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

44. The total of the cash balances in all treasuries of the existing State of Maharashtra and the credit balances of that State with the Reserve Bank of India, the State Bank of India and any other Bank immediately before the appointed day shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the appointment shall be effected by adjusting the credit balances of the States of Maharashtra and Vidarbha in the books of the Reserve Bank of India on the appointed day:

Provided further that if the State of Vidarbha has, on the appointed day, no account with the Reserve Bank of India, the adjustment shall be made in such manner as the Central Government may, by order, direct.

Arrears of taxes.

45. The right to recover arrears of any tax or duty on property, including arrears of land revenue, shall belong to the State in whose territories the place of assessment of that tax or duty is included on the appointed day:

Provided that any sum recovered after the appointed day in respect of any arrears of tax accruing during the period between the 1st day of April, 1997 and the 25th day of January, 1998 (both days inclusive) under the Central Sales Tax Act, 1956, or under any other Sales Tax Act, applicable to the existing State of Maharashtra shall, after deducting the cost of collection thereof, be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

74 of 1956

Right to recover loans and advances.

46. *(1)* The right to recover any loans or advances made before the appointed day to any local body, society, agriculturist or other person in an area within the State of Maharashtra or Vidarbha shall belong to that State in which that area is included on that day.

(2) The right to recover any loans or advances made before the appointed day to any person or institution outside the existing State of Maharashtra shall belong to the State of Maharashtra:

Provided that any sum recovered in respect of any such loan or advance shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

Credits in certain funds.

47. *(1)* The investment of the existing State of Maharashtra, made before the appointed day from the cash balance investment account of the State, such securities of the value of ten hundred crore of rupees, as the Central Government may by order specify, shall pass to the State of Vidarbha in connection with the construction of a capital for that State; and such securities of the value of ten thousand and five hundred crore of rupees, as the Central Government may by order specify, shall pass to the State of Vidarbha in connection with the development backlog agreed to by existing State of Maharashtra before the appointed day; and the remaining investments from the said account shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

(2) The investments of the existing State of Maharashtra immediately before the appointed day in the State Famine Relief Fund, the State Road Fund, the Fund for Development Schemes, the Insurance Fund, the Maharashtra State Milk Fund, the Securities Adjustment Reserve Fund and any other general fund and the sums at the credit of that State in the Central Road Fund shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

(3) The investment, other than those specified in this Act, of the existing State of Maharashtra, made immediately before the appointed day, shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population and the investment in any other special fund the objects of which are confined to a local area shall belong to the State in which that area is included on the appointed day.

(4) The investment of the existing State of Maharashtra, made immediately before the appointed day, in any private commercial or industrial undertaking, in so far as such investments have not been made or are deemed not to have been made from the cash balance investment account, shall pass to the State in which the principal seat of business of the undertaking is located.

(5) Where any body corporate constituted under a Central Act, or a State Act or Provincial Act for the existing State of Maharashtra or any part thereof has, by virtue of the provisions of Part II, becomes an inter-State body corporate, the investments in, or loans or advances to, any such body corporate by the existing State of Maharashtra made before the appointed day shall, save as otherwise expressly provided by or under this Act, be divided between the States of Maharashtra and Vidarbha in the same proportion in which the assets of the body corporate are divided.

Assets and liabilities of State undertakings.

48. *(1)* The assets and liabilities relating to any commercial or industrial undertaking of the existing State of Maharashtra shall pass to the State in which the undertaking is located.

(2) Where a depreciation reserve fund is maintained by the existing State of Maharashtra for any such commercial or industrial undertaking, the securities held in respect of investments made from that fund shall pass to the State in which the undertaking is located.

Public debt.

49. *(1)* The public debt of the existing State of Maharashtra attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall, on and from that day, be the debt of the State of Maharashtra:

Provided that—

the State of Vidarbha shall be liable to pay to the State of Maharashtra its share of the sums due from time to time for the servicing and repayment of the debt; and

for the purpose of determining the said share, the debt shall be deemed to be divided between the States of Maharashtra and Vidarbha as per the provisions of sub-sections (2) and (3), as the case may be.

(2) The public debt of the existing State of Maharashtra attributable to loans taken from the Central Government, the National Co-operative Development and Warehousing Board or the Khadi and Village Industries Commission or from any other source for the express purpose of re-lending the same to a specific institution and outstanding immediately before the appointed day shall,—

(a) if re-lent to any local body, body corporate or other institution in any local area, be the debt of the State in which the local area is included on the appointed day; and

(b) if re-lent to the Maharashtra State Electricity Board, the Maharashtra State Road Transport Corporation or the Maharashtra Housing Board or to any other institution which becomes an inter-State institution on the appointed day, be divided between the States of Maharashtra and Vidarbha in the same proportion in which the assets of such body corporate or institution are so divided.

(3) The remaining public debt of the existing State of Maharashtra attributable to loans taken from the Central Government, the Reserve Bank of India or any other body corporate and outstanding immediately before the appointed day shall be divided between the States of Maharashtra and Vidarbha in proportion to the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to the appointed day in the territories included respectively in each of those States:

Provided that for the purposes of such division, only the expenditure on assets for which capital accounts have been kept shall be taken into account.

Explanation.—Where any expenditure on capital works or other capital outlays cannot be allocated between the territories included in the States of Maharashtra and Vidarbha, such expenditure shall, for the purposes of this sub-section, be deemed to have been incurred in those territories according to the population ratio.

(4) Where a sinking fund or a depreciation fund is maintained by the existing State of Maharashtra for repayment of any loan raised by it, the securities held in respect of investments made from that fund shall be divided between the States of Maharashtra and Vidarbha in the same proportion in which the total public debt is divided between the two States under this section.

Explanation.—For the purposes of this sub-section the fund in the public account of the existing State of Maharashtra known as the Debt Redemption and Avoidance Fund shall be deemed to be a sinking fund.

(5) The share of the State of Vidarbha in the liability on account of public debt apportioned under sub-section *(3)* may be reduced by such amount as the President may determine and the share of the State of Maharashtra in such liability shall be correspondingly increase.

(6) The liability of the existing State of Maharashtra in respect of any floating debt on account of any undertaking, scheme, project or any other purpose shall be the liability of the State in whose territories such undertakings, schemes or projects are situated or in operation on the appointed day.

(7) In this section, the expression "Government security" means a security created and issued by a State Government for the purpose of raising a public loan and having any of the forms specified in, or prescribed under clause *(2)* of section 2 of the Public Debt Act, 1944.

18 of 1944.

Refund of taxes collected in excess.

50. The liability of the existing State of Maharashtra to refund any tax or duty on property, including land revenue collected in excess shall be the liability of the State in which the property is situated, and the liability of the existing State of Maharashtra to refund any other tax or duty collected in excess shall be the liability of the State in whose territories the place of assessment of that tax or duty is included:

Provided that the liability to refund any amount after the appointed day on account of any excess collected in respect of any tax accruing during the period between the 1st day of January, 1998, and the 30th day of April, 1998 (both days inclusive) under the Central Sales Tax Act, 1956 or under any other sales tax Act applicable to the existing State of Maharashtra, shall be shared between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

74 of 1956.

Deposits, etc.

51.*(1)* The liability of the existing State of Maharashtra in respect of any civil deposit or local fund deposit shall, on and from the appointed day, be the liability of the State in whose territories the deposit has been made.

(2) The liability of the existing State of Maharashtra in respect of any charitable or other endowment shall, on and from the appointed day, be the liability of the State in whose territories the institution entitled to the benefit of the endowment is located or of the State to which the objects of the endowment, under the terms thereof, are confined.

Provident Fund.

52. The liability of the existing State of Maharashtra in respect of the provident fund account of a Government servant in service on the appointed day shall, on and from that day, be the liability of the State to which that Government servant is permanently allotted.

Pensions.

53. The liability of the existing State of Maharashtra in respect of pensions shall pass to or be apportioned between the States of Maharashtra and Vidarbha in accordance with the provisions contained in the Fourth Schedule.

Contracts.

54. *(1)* Where before the appointed day, the existing State of Maharashtra has made any contract in the exercise of its executive power for any purposes of that State, that contract shall be deemed to have been made in the exercise of the executive powers,—

(*a*) if such purposes are, on and from the appointed day, exclusively purposes of either the State of Maharashtra or the State of Vidarbha of that State; and

(*b*) in any other case, of the State of Maharashtra and all rights and liabilities which have accrued, or may accrue, under any such contract shall, to the extent to which they would have been rights or liabilities of the State of Maharashtra, be rights or liabilities of the existing State of Maharashtra or the State of Vidarbha, as the case may be:

Provided that in any such case as is referred to in clause *(b)*, the initial allocation of rights and liabilities made by this sub-section shall be subject to such financial adjustment as may be agreed upon between the State of Maharashtra and the State of Vidarbha or, in default of such agreement, as the Central Government may, by order, direct.

(2) For the purposes of this section, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

(*a*) any liability to satisfy an order or award made by any court or other tribunal in proceedings relating to the contract; and

(*b*) any liability in respect of expenses incurred in or in connection with, any such proceedings.

(3) This section shall have effect subject to the other provisions of this Part relating to the apportionment of liabilities in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

Liability in respect of actionable wrong.

55. Where, immediately before the appointed day, the State of Maharashtra is subject to any liability in respect of any actionable wrong other than breach of contract, that liability shall,—

(*a*) if the cause of action arose wholly within the territories which, on and from that day, are the territories of the State of Maharashtra or the State of Vidarbha, as the case may be, be a liability of that State; and

(*b*) in any other case, be initially a liability of the State of Maharashtra, but subject to such financial adjustment as may be agreed upon between the States of Maharashtra and Vidarbha or in default of such agreement, as the Central Government may, by order, direct.

Liability as guarantor.

56. Where, immediately before the appointed day, the existing State of Maharashtra is liable as guarantor in respect of any liability of a registered cooperative society or other persons, that liability shall,—

(*a*) if the area of operations of such society or person is limited to the territories which on and from that day, are the territories of the State of Maharashtra or of the State of Vidarbha as the case may be, be a liability of that State; and

(*b*) in any other case, be initially a liability of the State of Maharashtra, but subject to such financial adjustment as may be agreed upon between the States of Maharashtra and Vidarbha or, in default of such agreement, as the Central Government may by order, direct.

Items in suspense.

57. If any item in suspense is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing provisions of this Part, it shall be dealt with in accordance with that provision.

Residuary provision.

58. The benefit or burden of any asset or liability of the existing State of Maharashtra not dealt within the foregoing provisions of this Part shall pass to the State of Maharashtra in the first instance, but shall be subject to such financial adjustment as may be agreed upon between the States of Maharashtra and Vidarbha before the 1st day of April, 1998 or, in default of such agreement, as the Central Government may, by order, direct.

Apportionment of assets or Liabilities by agreement.

59. Where the States of Maharashtra and Vidarbha agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

Power of Central Govt. to order allocation or adjustment in certain cases.

60. Where, by virtue of any of the provisions of this Part, any of the States of Maharashtra and Vidarbha becomes entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government, on a reference made within a period of three years from the appointed day by either of the States, is of opinion that it is just and equitable that that property or those benefits should be transferred to, or shared with, the other State or that a contribution towards that liability should be made by the other State, the said property or benefits shall be allocated in such manner between the two States, or the other State shall make to the State subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the two State Governments, by order determine.

Certain expenditure to be charged on the Consolidated Fund.

61. All sums payable either by the State of Maharashtra or by the State of Vidarbha to any other State or by the Central Government to either of those States, by virtue of the provisions of this Act, shall be charged on Consolidated Fund of that State by which such sums are payable or, as the case may be, the Consolidated Fund of India.

PART VII

PROVISIONS AS TO CERTAIN CORPORATIONS

Provisions as to certain Corporations.

62. *(1)* The following bodies corporate constituted for the existing State of Maharashtra, namely:—

(a) the Maharashtra State Electricity Board;

(b) the Maharashtra State Warehousing Corporation; and

(c) such other bodies corporate, as the President may determine,

shall, on and from the appointed day, continue to function in those areas in respect of which they were functioning immediately before that day subject to the provisions of this section and to such directions as may, from time to time, be issued by the Central Government.

(2) Any directions issued by the Central Government under sub-section *(1)* in respect of the Board or the Corporation shall include a direction that the Act under which the Board or the Corporation was constituted shall, in its application to that Board or Corporation, have effect subject to such exception and modifications as the Central Government thinks fit.

(3) The Board or the Corporation referred to in sub-section *(1)* shall cease to function as from, as shall be deemed to be dissolved on the 1st day of March, 1998, or such earlier date as the Central Government may, by order, appoint; and upon such dissolution, its assets, rights and liabilities shall be apportioned between the State of Maharashtra and the State of Vidarbha in such manner as may be agreed upon between them within one year of the dissolution of the Board or the Corporation, as the case may be, or if no agreement is reached, in such manner as the Central Government may, by order, determine.

(4) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Maharashtra or, as the case may be, the Government of the State of Vidarbha from constituting, at any time on or after the appointed day

a State Electricity Board or a State Warehousing Corporation or other such bodies corporate for that State under the provisions of the Act relating to such Board or Corporation; and if such a Board or Corporation is so constituted in either of the States before the dissolution of the Board or the Corporation referred to in sub-section (*1*),—

(a) provision may be made by order to the Central Government enabling the new Board or the new Corporation to take over from the existing Board or Corporation all or any of its undertakings, assets, rights and liabilities in that State; and

(b) upon the dissolution of the existing Board or Corporation, any assets, rights and liabilities which would otherwise have passed to that State by or under the provisions of sub-section (*3*) shall pass to the new Board or the new Corporation instead of to that State.

Continuance of arrangements in regard to generation and supply of electric power and supply of water.

63. If it appears to the Central Government that the arrangement in regard to the generation or supply of electric power or the supply of water for any area or in regard to the execution of any project for such generation or supply has been or is likely to be modified to the disadvantage of that area by reason of the fact that it is, by virtue of the provisions of part II, outside the State in which the power stations and other installations for the generation and supply of such power, or the catchment area, reservoirs and other works for the supply of water, as the case may be, are located, the Central Government may give such directions as it deems proper to the State Government or other authority concerned for the maintenance, so far as practicable, of the previous arrangement.

Provisions as to Maharashtra State Financial Corporation.

64. *(1)* The Maharashtra State Financial Corporation established under the State Financial Corporations Act, 1951, shall, on and from the appointed day, continue to function in those areas in respect of which it was functioning immediately before that day, subject to the provisions of this section and to such directions, as may from time to time, be issued by the Central Government. 63 of 1951.

(2) Any directions issued by the Central Government under sub-section (*1*) in respect of the Corporation may include a direction that the said Act, in its application to the Corporation, shall have effect subject to such exceptions and modifications as may be specified in the direction.

(3) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), a general meeting of the Corporation by the Board of Directors of the Corporation shall be convened in accordance with the rules to be made in this behalf by the Central Government before the 31st day of July, 1998, or within such further time, as the Central Government may allow, for the consideration of a scheme for the reconstitution or reorganisation or dissolution, as the case may be of the Corporation, including proposals regarding the formation of new corporations and the transfer thereto of the assets, rights and liabilities of the existing Corporation, and if such a scheme is approved at the general meeting by a resolution passed by a majority of the shareholders present and voting, the scheme shall be submitted to the Central Government for its sanction.

(4) If the scheme is sanctioned by the Central Government either without modifications or with modifications which are approved at a general meeting, the Central Government shall certify the scheme, and upon such certification, the scheme shall, notwithstanding anything to the contrary contained in any law for the time being in force, be binding on the corporations, affected by the scheme as well as the shareholders and creditors thereof.

(5) If the scheme is not so approved or sanctioned, the Central Government may refer the scheme to such Judge of the High Court at Bombay as may be nominated in this behalf by the Chief Justice thereof, and the decision of the Judge in regard to the scheme shall be final and shall be binding on the Corporations affected by the Scheme as well as the shareholders and creditors thereof.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the Government of the State of Vidarbha from constituting, at any time on or after

the appointed day, a State Financial Corporation for that State under the State Financial Corporations Act, 1951.

63 of 1951.

64 of 1950.

65. In the Road Transport Corporation Act, 1950,— Amendment of Act No. 64 of 1950.

(i) in section 47A, in sub-section (*1*), in the *Explanation*, after clause (i), the following clause shall be inserted, namely:—

"*(ia)* in relation to the Maharashtra State Road Transport Corporation, shall mean the Government of the State of Maharashtra or of Vidarbha as formed under Maharashtra Reorganisation Act, 1997.".

(ii) after section 48, the following section shall be inserted, namely:—

"49. Notwithstanding anything contained in section 47A, it shall be lawful for the Government of the State of Maharashtra to frame a scheme under sub-section (*1*) thereof and forward the same to the Central Government before the 26th January, 1998 and in such a case, the power conferred on the Central Government to make an order under sub-section (2) thereof may be exercised before that day but no order so made shall take effect till that day.". Transitional provision relating to Maharashtra State Road Transport Corporation.

38 of 1926.

66. *(1)* In the Indian Bar Councils Act, 1926,— Amendment of Act No. 38 of 1926.

(a) in section 4,—

(i) in sub-section (*2*), the existing Explanation shall be re-numbered as Explanation I and after Explanation I as so re-numbered, the following Explanation shall be added, namely:—

"*Explanation II.*—For the purpose of election to the Bar Council for the High Court of Vidarbha, the period of ten years aforesaid shall be computed after taking into account the period for which the person concerned was entitled as of right to practise in the High Court at Bombay before 26th day of January, 1998";

(ii) in the proviso to sub-section (*4*), after the word "Maharashtra", the word "Vidarbha" shall be inserted.

(b) after section 5A, the following section shall be inserted, namely:—

"5B.*(1)* Notwithstanding anything contained in this Act, the Chief Justice of the High Court of Vidarbha shall nominate the members of the first Bar Council under this Act for the High Court of Vidarbha and the members so nominated shall remain in office for a period of twelve months. Ad-hoc Bar Council for High Court of Vidarbha.

(2) The assets and liabilities of the Bar Council for the High Court at Bombay shall be divided between the Bar Councils for the High Court at Bombay and the High Court of Vidarbha in such manner, as may be agreed upon between them and in default of such agreement, as may be directed by the Attorney-General of India.".

6 of 1942.

67. In the Multi-unit Co-operative Societies Act, 1942, after section 5D, the following section shall be inserted namely:— Amendment of Act No. 6 of 1942.

"5E.*(1)* Where, in respect of any co-operative society specified in the Fifth Schedule to the Maharashtra Reorganisation Act, 1997, which under the provisions of sub-section (*1*) of section 5A becomes, a multi-unit co-operative society, the Board of Directors shall adopt any scheme for the reconstitution, reorganisation or dissolution of the society, including proposals for the formation of new co-operative societies and the transfer thereto of the assets and liabilities and employees of that society and the State Government of Maharashtra certifies the scheme at any time before the 26th day of January, 1998, then notwithstanding anything contained in sub-section (*2*) or sub- section (*3*) or sub-section (*4*) of the said section or any other law, regulation or bye-law for the time being in force in relation to that society the scheme so certified shall be binding on all societies affected by the scheme, as well Transitional provision relating to Certain Multi-unit Co-operative Societies.

as the shareholders, creditors and employees of all such societies, subject to such financial adjustments as may be directed in this behalf under sub-section (*3*), but no such scheme shall be given effect to before the said day.

(*2*) When a scheme in respect of a co-operative society is so certified, the Central Registrar shall place the scheme at a meeting, held in such manner as may be prescribed by rules made under this Act, of all the persons who, immediately before the date of certification of the scheme, were members of the society and the scheme may be approved by a resolution passed by a majority of the members present and voting at the said meeting.

(*3*) If the scheme is not so approved or is approved with modifications, the Central Registrar may refer the scheme to such Judge of the High Court at Bombay as may be nominated in this behalf by the Chief Justice thereof and the Judge may direct such financial adjustments to be made among the societies affected as he deems necessary and the scheme shall be deemed to be approved subject to those financial adjustments.

(*4*) If in consequence of the directions given under sub-section (*3*), a society becomes liable to pay any sum of money, the State within whose area the society is located shall be liable as guarantor in respect of the payment of such money.".

General provisions as to statutory Corporations..

68. (*1*) Save as otherwise expressly provided by the foregoing provisions of this Part where any body corporate constituted under a Central Act, State Act or Provincial Act for the existing State of Maharashtra or any Part thereof has by virtue of the provisions of Part II, become an inter-State body corporate, then, the body corporate shall on and from the appointed day, continue to function and operate in those areas in respect of which it was functioning and operating immediately before that day, subject to such directions as may from time to time be issued by the Central Government, until other provision is made by law in respect of the said body corporate.

(*2*) Any directions issued by the Central Government under sub-section (*1*) in respect of any such body corporate shall include a direction that any law by which the said body corporate is governed shall, in its application to that body corporate have effect subject to such exceptions and modifications as may be specified in the direction.

Vidarbha Development Board.

69. Vidarbha Development Board established under article 371 of the Constitution shall stand dissolved on and from the appointed day.

Temporary provisions as to continuance of certain existing road transport permits.

70. (*1*) Notwithstanding anything contained in the Motor Vehicles Act, 1988, a permit granted by the State Transport Authority of the existing State of Maharashtra or any Regional Transport Authority in that State shall, if such permit was immediately before the appointed day valid and effective in any area in the transferred territory be deemed to continue to be valid and effective in that area after that day subject to the provisions of that Act as for the time being in force in that area and it shall not be necessary for any such permit to be countersigned by the State Transport Authority of Vidarbha or any Regional Transport Authority therein for the purpose of validating it for use in such area: 59 of 1988.

Provided that the Central Government may after consultation with the State Governments of Maharashtra and Vidarbha add or amend or vary the conditions attached to the permit by the Authority by which the permit was granted.

(*2*) No tolls, entrance fees or other charges of a like nature shall be levied after the appointed day in respect of any transport vehicle for its operations in the State of Vidarbha under any such permit if such vehicle was immediately before that day exempt from the payment of any such toll, entrance fees or other charges for its operations in the transferred territory:

Provided that the Central Government may after consultation with the State Governments of Maharashtra and Vidarbha authorise the levy of any such toll, entrance fees or other charges as the case may be.

Special provisions relating to retrenchment Compensation in certain cases.

71. Where on account of the reorganisation of the existing State of Maharashtra under this Act, any body corporate constituted under a Central Act, State Act or Provincial Act, any co-operative society registered under any law relating to co-operative societies or any commercial or industrial undertaking of that State is reconstituted or reorganised in any manner whatsoever or is amalgamated with any other body corporate, co-operative society or undertaking, or is dissolved, and in consequence of such reconstitution reorganisation amalgamation or dissolution any workman employed by such body corporate or in any such co-operative society or undertaking, is transferred to or re-employed by any other body corporate, or in any other co-operative society or undertaking then notwithstanding anything contained in section 25F of the Industrial Disputes Act, 1947, such transfer or re-employment shall not entitle him to any compensation under that section:

14 of 1947.

Provided that—

(*a*) the terms and conditions of service applicable to the workman after such transfer or re-employment are not less favourable to the workman than those applicable to him immediately before the transfer or re-employment;

(*b*) the employer in relation to the body corporate, the cooperative society or the undertaking where the workman is transferred or re-employed is, by agreement or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation under section 25F of the Industrial Disputes Act, 1947, on the basis that his service has been continuous and has not been interrupted by the transfer or re-employment.

14 of 1947.

Special provision as to income-tax.

72. Where the assets, rights and liabilities of any body corporate carrying on any business are, under the provisions of this Part, transferred to any other bodies corporate which after the transfer carry on the same business the losses of profits or gains sustained by the body corporate first mentioned which, but for such transfer would have been allowed to be carried forward and set off in accordance with the provisions of the Income-tax Act, 1961 shall be apportioned amongst the transferee bodies corporate in accordance with the rules to be made by the Central Government in this behalf and, upon such apportionment, the share of loss allotted to each transferee body corporate shall be dealt with in accordance with the provisions of the said Act, as if the transferee body corporate had itself sustained such loss in a business carried on by it in the years in which these losses were sustained.

Continuance of facilities in certain State institutions.

73. (*1*) The Government of the State of Maharashtra or, as the case may be, the Government of State of Vidarbha shall, in respect of the institutions specified in the Sixth Schedule located in that State continue to provide facilities to the people or the other State which shall not, in any respect be less favourable to such people than what were being provided to them before the appointed day, for such period and upon such terms and conditions, as may be agreed upon between the two State Governments before the 1st day of May, 1998 or, if no agreement is reached by the said date, as may be fixed by order of the Central Government.

(*2*) The Central Government may, at any time before the 1st day of May, 1998, by notification in the Official Gazette, specify in the Thirteenth Schedule any other institution existing on the appointed day in the State of Maharashtra or of Vidarbha, and on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said institution therein.

PART VIII

PROVISIONS AS TO SERVICES

Provisions relating to All India Services.

74. (*1*) In this section the expression "State cadre"—

(*a*) relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of the cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Maharashtra immediately before the appointed day there shall, on and from that day, be two separate cadres, one for the State of Maharashtra and the other for the State of Vidarbha, in respect of each of these services.

(*3*) The initial strength and composition of each of the State Cadres shall be such as the Central Government may by order determine before the appointed day.

(*4*) The members of each of the said services borne on those cadres for the existing State of Maharashtra immediately before the appointed day shall be allocated to the State cadres of the same service for each of States of Maharashtra and Vidarbha in such manner and with effect from such date or dates as the Central Government may by order specify.

(*5*) Nothing in this section shall be deemed to affect the operation after the appointed day of the All-India Services Act, 1951, or the rules made thereunder in relation to the State cadres of the said services constituted under sub-section (*2*) and in relation to the members of those services borne on the said cadres. 61 of 1951.

Provisions relating to other Services.

75. (*1*) Every person who, immediately before the appointed day, in serving in connection with the affairs of the State of Maharashtra shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Maharashtra unless he is required, be general or special order of the Central Government, to serve provisionally in connection with the affairs of the State of Vidarbha.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the State to which every person, referred to in sub-section (*1*), shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(*3*) Every person who is finally allotted under the provisions of sub-section (*2*) to the State of Maharashtra or Vidarbha shall, if he is not already serving therein, be made available for serving in that State from such date as may be agreed upon between the two State Governments or, in default of such agreement, as may be determined by the Central Government.

(*4*) **The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—**

(*a*) the division and integration of the services among the State of Maharashtra and Vidarbha; and

(*b*) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(*5*) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 74 apply.

(*6*) Nothing in this section shall be deemed to affect, on and from the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of the Union or of the States of Maharashtra or Vidarbha:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person provisionally or finally allotted to the State of Maharashtra or Vidarbha under this section shall not be varied to his disadvantage except with the previous approval of the Central Government.

Provisions as to continuance of officers in same post.

76. Every person who, immediately before the appointed day, is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Maharashtra in any area which on that day falls within the State of Maharashtra or Vidarbha shall continue to hold the same post or office in that State and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or other appropriate authority in, that State:

Provided that nothing in this section shall be deemed to prevent a competent authority on and after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

Power of Central Government to give directions.

77. The Central Government may give such directions to the State Governments of Maharashtra and Vidarbha as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part and the State Governments shall comply with such directions.

Provisions as Maharashtra Public Service Commission.

78. *(1)* The Public Service Commission for the existing State of Maharashtra shall, on and from the appointed day, continue to be the Public Service Commission for the State of Vidarbha.

(2) The report of the Maharashtra Public Service Commission as to the work done by the Commission in respect of any period prior to the appointed day shall be presented under clause (2) of article 323 to the Governors of Maharashtra and Vidarbha, and the Governor of Maharashtra shall, on receipt of such report, cause a copy thereof together with a memorandum explaining, as far as possible, as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before the Legislature of the State of Maharashtra and it shall not be necessary to cause such report or any such memorandum to be laid before the Legislative Assembly of the State of Vidarbha.

PART IX

LEGAL AND MISCELLANEOUS PROVISIONS

Amendment of article 371 of the Constitution.

79. On and from the appointed day, in article 371 of the Constitution, in clause (2),—

(a) for the words "the State of Maharashtra or Gujarat", the words "the State of Maharashtra, Vidarbha or Gujarat" shall be substituted; and

(b) in sub-clause *(a)*, for the words "the rest of Maharashtra", the words "the rest of Maharashtra or Vidarbha" shall be substituted.

Amendment of Act No. 37 of 1956.

80. In section 15 of the States Reorganisation Act, 1956, in clause *(d)*, for the words "Gujarat and Maharashtra", the words "Gujarat, Maharashtra and Vidarbha", shall be substituted.

Territorial extent of laws.

81. The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Maharashtra shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

Power to adapt laws.

82. For the purpose of facilitating the application in relation to the State of Maharashtra or Vidarbha of any law made before the appointed day, the appropriate Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.— In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law, the State Government.

Power to construe laws.

83. Notwithstanding that no provision or insufficient provisions has been made under section 82 for the adaptation of a law made before the appointed day, any court, tribunal or authority, required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Maharshtra or Vidarbha, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

Power to name authorities, etc. for exercising statutory functions.

84. The Government of the State of Vidarbha, as respects the transferred territory may, by notification in the Official Gazette, specify the authority, officer or person who, on and from the appointed day, shall be competent to exercise such functions exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

85. Where, immediately before the appointed day, the existing State of Maharashtra is a party to any legal proceedings with respect to any property rights or liabilities subject to apportionment between the States of Maharashtra and Vidarbha under this Act, the State of Maharashtra or Vidarbha which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Maharashtra or added as a party to those proceedings, and the proceedings may continue accordingly.

Transfer of pending proceedings.

86. *(1)* Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal, authority or officer in any area which on that day falls within the State of Maharashtra shall, if it is a proceeding relating exclusively to the transferred territory, stand transferred to the corresponding court, tribunal, authority or officer in the State of Vidarbha.

(2) If any question arises as to whether any proceeding should stand transferred under sub-section *(1)*, it shall be referred to the High Court at Bombay and the decision of the High Court shall be final.

(3) In this section,—

(a) "proceeding" includes any suit, case or appeal; and

(b) "corresponding courts, tribunal, authority or officer" in the State of Vidarbha means—

(i) the court, tribunal, authority or officer in which, or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(ii) in case of doubt, such court, tribunal, authority, or officer in the State, as may be determined after the appointed day by the Government of that State, or before the appointed day by the Government of the existing State of Maharashtra, to be the corresponding court, tribunal, authority or officer.

Right of pleaders to practise in certain cases.

87. Any person who, immediately before the appointed day, is enrolled as a pleader entitled to practise in any subordinate courts in the existing State of Maharashtra shall, for a period of one year from that day, continue to be entitled to practise in those courts, notwithstanding that the whole or any part of the territories within the jurisdiction of those courts has been transferred to the State of Vidarbha.

Effect of provisions of the Act inconsistent with other laws.

88. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

Power to remove difficulties.

89. If any difficulty arises in giving effect to the provisions of this Act the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulties.

Power to make rules.

90. *(1)* The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule, shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

1515/41 F-138

THE FIRST SCHEDULE

(*See* section 23)

AMENDMENT OF THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, for "Part X.— Maharashtra", substitute, "Part X.— Maharashtra and Vidarbha".

THE SECOND SCHEDULE

(*See* section 24)

AMENDMENT OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950

In the Constitution (Scheduled Tribes) Order, 1950, in the Schedule, for "Part X.—Maharashtra", substitute, "Part X. — Maharashtra and Vidarbha".

THE THIRD SCHEDULE

[*See* section 43(2)]

1. Stores held for specific purposes such as for use or utilisation in particular institutions, workshops or undertakings or on particular works under construction shall pass to the State in which such institutions, workshops, undertakings or works are located on the appointed day.

2. Stores relating to the Secretariat and offices of Heads of Departments having, immediately before the appointed day, jurisdiction over the whole of the existing State of Maharashtra shall remain the property of the State of Maharashtra:

Provided that typewriters, duplicators, clocks, vehicles and such other property or articles shall be divided between the States of Maharashtra and Vidarbha according to the ratio of their respective population.

3. All other unissued stores, of any class shall be divided between the States of Maharashtra and Vidarbha in proportion to the total stores of that class purchased in the period of three years ending with the 31st December, 1997, for the territories included respectively in each of those States :

Provided that in respect of any class of stores where the value of such stores does not exceed Rs. 10,000, that class of stores shall be divided between the two States according to the ratio of their respective population.

THE FOURTH SCHEDULE

(*See* section 53)

APPORTIONMENT OF LIABILITY IN RESPECT OF PENSIONS

1. Subject to the adjustments mentioned in paragraph 3, each of the States of Maharashtra and Vidarbha shall in respect of pensions granted by the existing State of Maharashtra before the appointed day, pay the pensions drawn in its treasuries.

2. Subject to the said adjustments the liability in respect of pensions of officers serving in connection with the affairs of the existing State of Maharashtra who retire or proceed on leave preparatory to retirement before the appointed day, but whose claims for pensions are outstanding immediately before that day, shall be the liability of the State of Maharashtra.

3. There shall be computed in respect of the part of the financial year commencing on the appointed day and in respect of each subsequent financial year, the total payments made in each of the States of Maharashtra and Vidarbha in respect of pensions referred to in paragraphs 1 and 2; and that total payments in respect of pensions shall be apportioned between the States of Maharashtra and Vidarbha in the population ratio and the State paying more than its due share shall be reimbursed the excess amount by the other State.

4. (*1*) The liability in respect of the pension of any officer serving immediately before the appointed day in connection with the affairs of the existing State of Maharashtra and retiring on or after that day shall be that of the State which grants him the pension but the portion of the pension attributable to the service of any such officer before the appointed day in connection with the affairs of the existing State of Maharashtra shall be allocated between the States of Maharashtra and Vidarbha in the population ratio and the Government which grants the pension shall be entitled to receive from the other Government its share of such liability.

(*2*) If any such officer was serving after the appointed day for some period in connection with the affairs of the State of Maharashtra and for some period in connection with the affairs of the State of Vidarbha, the Government other than the one granting the pension shall reimburse to the Government by which the pension is granted an amount which bears to the portion of the pension attributable to his service after the appointed day the same ratio as the period of his qualifying service after the appointed day under the reimbursing State bears to the total qualifying service after the appointed day reckoned for the purposes of pension.

5. Any reference in this Schedule to a pension shall be construed as including a reference to the commuted value of the pension.

THE FIFTH SCHEDULE

(*See* section 67)

1. The Maharashtra State Cooperative Bank Limited.
2. The Maharashtra State Cooperative and Mortage Bank Limited.
3. The Maharashtra State Cooperative Housing Finance Society.
4. The Maharashtra State Industrial Cooperative Association.
5. The Maharashtra State Cooperative Union.
6. Maharashtra Rajya Sahakari Karkhana Sangh.
7. Maharashtra State Cotton Growers' Marketing Federation.

THE SIXTH SCHEDULE

(*See* section 73)

1. J.J. College of Architecture, Bombay.
2. J.J. Institute of Applied Art, Bombay.
3. School of Printing Technology, Bombay.
4. Government Tanning Institute, Bombay.
5. Government Leather Working School, Bombay.
6. Veterinary College, Bombay.
7. R.A. Podar Medical College (Ayurvedic), Bombay.
8. C.E.M. Dental College, Bombay.
9. Haffkine Institute, Bombay.
10. Forensic Science Laboratory and Chemical Analysers Department, Bombay.
11. State Fire School, Ghatkopar, Bombay.
12. Secretariat Record Office, Bombay.
13. Mathematic instruments Depot and Workshop, Bombay.

STATEMENT OF OBJECTS AND REASONS

The Bombay Reorganisation Act, 1960 provided for the creation of two new States of Maharashtra and Gujarat out of the then existing State of Bombay.

Previously, the Vidarbha region consisting of nine districts was associated with Madhya Pradesh and its capital was at Nagpur. At the time of formation of the State of Maharashtra many assurances were given to this region through Nagpur pact. Some of the assurances were:—

1. Subject to the requirements of the single Government, the allocation of funds for developmental expenditure would be in proportion to population of the regions comprising the State. In view of the present underdeveloped State of Vidarbha, special attention would be given to promote their all-sided development.

2. Separate Development Board for Vidarbha would be established and a report about the allocation of funds and the working of the Board would be placed each year before the State Legislative Assembly.

3. An equitable arrangement providing adequate facilities for technical education and vocational training would be made. Adequate opportunities for employment in services under the control of the State Government, subject to the requirements of the State as a whole, would also be provided.

4. There would be a permanent Bench of the High Court at Nagpur having jurisdiction over Vidarbha.

5. Adequate representation would be given to Vidarbha in making recommendations for the appointment of High Court Judges, whether from the Bar or from the services.

6. As an effective means of associating the people of the region with the administration, there would be as much decentralisation as possible.

7. In view of the long association of the people of Vidarbha with Nagpur and the various advantages derived by the people of Vidarbha therefrom, Government would regularly shift to Nagpur for a definite period and hold at least one Session of the State Legislature there every year.

8. Special attention would be paid to the proper development of Nagpur and every effort would be made to maintain its importance.

9. In addition, special attention would be paid to irrigation, industrialisation, exploration and exploitation of minerals and provision of drinking water supply in rural areas in the Vidarbha region. Research in agriculture and horticulture would also be promoted.

But, even after 37 years of co-existence and brotherhood with Maharashtra State, for one or the other reason, the Vidarbha region of the State of Maharashtra has remained underdeveloped, while Maharashtra State as a single unit is well ahead in the country.

Recently, Maharashtra Government has calculated the imbalanced development of this region.

Inspite of having rich soil and sufficient water, rain fall, manpower, forest wealth and substantial potential of minerals, the region, after 37 years, still remains underdeveloped.

Recently, President established the Vidarbha Development Board but the people of the region feels that this board shall not be able to do much as far as the development of the region is concerned. In this year's budget there was no specific reflection of the recommendations of the board in respect of development of the region.

Therefore, the demand of the people of the Vidarbha region is that there should be a separate State of nine districts to be known as "Vidarbha" so as to instil in them feelings of self respect and independence.

The Bill seeks to achieve the above objective.

NEW DELHI;
August 29, 1996

DATTA MEGHE

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. I-6017/9/96-SR, dated 27 May, 1997 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Maharashtra Reorganisation Bill, 1997 by Shri Datta Meghe, M.P., has accorded his recommendation under articles 3, 117(1) and 274(1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

BILL No. 87 OF 1997

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement

2. Definitions

CHAPTER II

ESTABLISHMENT OF PUBLIC SECTOR ENTERPRISES DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

3. Establishment and incorporation of Public Sector Enterprises Development Bank of India.

4. Authorised Capital.

5. Subscribed Capital.

CHAPTER III

MANAGEMENT OF PUBLIC SECTOR BANK

6. Management.

7. Composition of the Board.

8. Executive Committee and other Committees.

9. Fees and allowances.

CHAPTER IV

BUSINESS OF PUBLIC SECTOR BANK

10. All public sector enterprises to exclusively bank with Public Sector Bank.

11. Business of Public Sector Bank.

12. Prohibited business.

13. Rehabilitation of sick public sector enterprises.

14. Loans by Central Government.

15. Borrowings and acceptance of deposits by Public Sector Bank.

16. Loans in foreign currency.

CLAUSES

17. Investments.

18. Interest on deposits/loans.

19. Grants and donations to public sector bank.

CHAPTER V

DEVELOPMENT ASSISTANCE FUND

20. Development Assistance Fund.

21. Credits to Development Assistance Fund.

22. Utilisation of Development Assistance Fund.

23. Accounts and audit of Development Assistance Fund.

24. Liquidation of Development Assistance Fund.

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

25. General Fund.

26. Preparation of accounts and balance-sheet.

27. Disposal of profits accruing to General Fund.

28. Audit.

CHAPTER VII

STAFF

29. Staff of Public Sector Bank.

CHAPTER VIII

MISCELLANEOUS

30. Delegation of powers.

31. Returns.

32. Obligation as to fidelity and secrecy.

33. Defects in appointments not to invalidate acts, etc.

34. Arrangement with Public Sector Bank on appointment of directors to prevail.

35. Indemnity of directors.

36. Protection of action taken under this Act.

37. Act 18 of 1891 to apply relation to Public Sector Bank.

38. Act 10 of 1949 not to apply to Public Sector Bank.

39. Act 43 of 1961 and Act 14 of 1963 not to apply to Public Sector Bank.

40. Liquidation of Public Sector Bank.

41. Power to make regulations.

42. Power to remove difficulty.

THE SCHEDULE

BILL NO. 87 OF 1997

A Bill to establish a separate Bank to cater to the needs of public sector enterprises.

WHEREAS it is expedient to provide comprehensive and exclusive banking services to the public sector enterprises and to promote and develop them;

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called Public Sector Enterprises Development Bank of India Act, 1997.

(2) It extends to whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) 'Board' means the Board of Directors of Public Sector Bank.

(*b*) 'Industrial Finance Corporation means the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948. 15 of 1948.

(*c*)"Nationalised Bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. 5 of 1970. 40 of 1980.

(*d*) "prescribed" means prescribed by regulations made under this Act;

(*e*) "public sector enterprises" shall mean and include every industrial, trading, mining, manufacturing, shipping, transport and any other undertaking established by or under the control of the Central Government or any of the State Governments or the Union territories, whether fully owned or partly owned or departmentally run or under the management of the Central or State Government including the enterprises referred to Bureau of Industrial and Financial Reconstruction under the Sick Industrial Companies Act but shall not include public sector banks or financial institutions, Railways, Airlines or surface transport undertakings;

(*f*) "Public Sector Bank" means Public Sector Enterprises Development Bank set up under this Act;

(*g*) "Scheduled Bank" means a bank for the time being included in the second Schedule to the Reserve Bank of India Act, 1934. 2 of 1934.

(*h*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955. 23 of 1955.

(*i*) "Subsidiary Bank" has the meaning assigned to it in the State Bank of India (Subsidiary Banks) Act, 1959. 38 of 1959.

(*j*) "State Financial Corporation" means a financial corporation established under section 3 or section 3A of the State Financial Corporation Act, 1951 and includes the Tamil Nadu Industrial Investment Corporation Limited. 63 of 1951.

CHAPTER II

ESTABLISHMENT OF PUBLIC SECTOR ENTERPRISES DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

Establishment and Incorporation of Public Sector Enterprises Development Bank of India.

3. (*i*) With effect from such date as the Central Government may by notification in official Gazette, appoint, there shall be established for the purposes of this Act a corporation to be known as the Public Sector Enterprises Development Bank of India. (hereinafter to be referred to as the Public Sector Bank.)

(*ii*) Public Sector Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and may by that name, sue or be sued;

(*iii*) The Principal office of the Public Sector Bank shall be at New Delhi or at such other place as the Central Government may by notification in the Official Gazette specify;

(*iv*) **The Public Sector Bank may establish offices, branches or agencies at any place in or outside India:**

Provided that atleast one branch/office shall be established at or as near as may be possible to the Corporate Office or Principal Administrative Office of each of the Public Sector Enterprises.

4. The authorised capital of Public Sector Bank shall be rupees two thousand five hundred crore: Authorised capital.

Provided that the Central Government may by notification in the Official Gazette, increase the Authorised Capital.

5. Each Public Sector Enterprise, including nationalised Banks and financial institutions shall subscribe to the capital of Public Sector Bank, to such an extent and in such proportion as may be decided by the Central Government: Subscribed Capital.

Provided that the Central and State Governments may also subscribe to the capital, to such an extent and subject to such restrictions as the Central Government may decide.

CHAPTER III

MANAGEMENT OF PUBLIC SECTOR BANK

6. (*1*) The general superintendence, direction and management of the affairs and business of the Public Sector Bank shall vest in a Board of Directors, which may exercise all powers and do all acts and things which may be exercised or done by the Bank. Management.

(*2*) Save as otherwise provided in regulations made under this Act,—

(*a*) The Chairman;

(*b*) The Managing Directors;

shall also have powers of general superintendence, direction and management of the affairs and business of the Public Sector Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Public Sector Bank.

(*3*) Subject to the provisions of this Act, the Board in discharging its functions shall act on business principles with due regard to public interest.

(*4*) In the discharge of its functions under this Act, the Public Sector Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

7. (*1*) The Board of Directors constituted under section 6 shall consist of the following, namely— Composition of the Board.

(*a*) a Chairman appointed by the Central Government;

(*b*) not more than three Managing Directors appointed by the Central Government;

(*c*) a Deputy Governor of Reserve Bank of India nominated by Reserve Bank of India;

(*d*) an Officer not below the level of Executive Director of Exim Bank, nominated by that Bank;

(*e*) an Officer not below the level of Executive Director of Industrial Development Bank of India nominated by that Bank;

(*f*) an Officer not below the level of Deputy Managing Director of State Bank of India, nominated by that bank;

(*g*) not more than three Directors, appointed by the Central Government from the Officers of the rank of General Managers of the Nationalised banks;

(*h*) not more than three directors appointed by the Central Government from among the Officers of Industrial Finance Corporation of India and State Financial Corporations;

(*i*) two directors nominated by Standing Committee of public sector enterprises;

(*j*) two directors nominated by Department of Public Enterprises of the Central Government;

(*k*) five directors from amongst the Officers of the public sector enterprises nominated by the Central Government;

(*l*) not more than five directors appointed by Central Government, from amongst persons who have special knowledge and professional experience in science, technology, economics, industry, finance, law, management, accounts and audit, administration and public affairs.

(*m*) one director each representing workmen and Officers of Public Sector Bank to be nominated by the Central Government;

(*n*) two directors representing employees of public sector enterprises who are workmen and two directors representing employees of public sector enterprises other than workmen, to be nominated by the Central Government.

(*2*) The Chairman and the managing directors shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment.

(*3*) Notwithstanding anything contained in sub-section *(2)*, the Central Government shall have the right to terminate the term of office of the Chairman or Managing Directors, as the case may be, at any time before the expiry of the term specified under sub-section *(2)* by giving notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the Chairman and Managing Directors, as the case may be, shall also have the right to relinquish their office at any time before the expiry of the term specified under sub-section *(2)* by giving to the Central Government notice of not less than three months in writing.

(*4*) The Chairman and the Managing Directors shall receive such salary and allowances as may be determined by the Central Government.

(*5*) The Central Government may, at any time, remove the Chairman or the Managing Directors, as the case may be, from office:

Provided that no person shall be removed from his office, under this sub-section, unless he has been given an opportunity of showing cause against his removal.

(*6*) A nominated director shall hold office during the pleasure of the authority nominating him.

(*7*) Subject to the provisions of sub-section *(6)*,—

Every director nominated under sub-clauses *(g)* to *(n)* of sub-section *(1)* shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years.

(*8*) The Board shall meet at such time and places and shall observe rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(*9*) The Chairman or, if for any reason he is unable to attend a meeting of the Board, any one of the Managing Directors or, in the event of both the Chairman and the Managing Directors being unable to attend a meeting, any other director nominated by the Chairman in this behalf and in the absence of such nomination any director elected by the directors present from among themselves, shall preside at the meeting.

(*10*) All questions which come up before any meeting of the Board shall be decided by

a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the Managing Director, or in the absence of both the Chairman and the Managing Director, the person presiding, shall have a second or casting vote.

(*11*) Save as provided in sub-section (7), every director of the Board shall have one vote.

Executive Committee and other Committees.

8. (*1*) The Board shall constitute an Executive Committee consisting of—

(*a*) the Chairman;

(*b*) all full time directors; and

(*c*) any other eight directors in rotation.

(*2*) The executive Committee shall discharge such functions as may be prescribed or as may be delegated to it by the Board.

(*3*) The Board may constitute such other committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons for such purpose or purposes as it may think fit.

(*4*) The Executive Committee or any other committee constituted under this section shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

Fees and Allowances.

9. The directors and members of a Committee shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any committees constituted in pursuance of this Act and for attending to any other work of the Public Sector Bank:

Provided that no fees shall be payable to the Chairman, if he is appointed whole-time or to a managing director or any other director or member who is an official of the Government, or to a Deputy Governor of the Reserve Bank or to any official of the Public Sector Bank.

CHAPTER IV

BUSINESS OF PUBLIC SECTOR BANK

All public sector enterprises to exclusively bank with Public Sector Bank.

10. (*1*) All public sector enterprises shall deposit with Public Sector Bank all their surplus funds, securities and instruments;

(*2*) All public sector enterprises shall confine their borrowings to Public Sector Bank.

(*3*) Public Sector Bank shall take over the deposit accounts, loan accounts, securities, assets held on pledge or mortgage by any other bank, on behalf of the Public Sector enterprises, by arrangement with the concerned banks, within such time frame as may be decided by the Central Government, so, however, that the Central Government may draw a phased plan for giving effect to this section.

Business of Public Sector Bank.

11. (*1*) Public Sector Bank shall function as the principal financial institution, for meeting the banking and financial needs of the Public Sector Enterprises and carry on and transact any of the following kinds of business, namely:—

(*a*) granting loans and advances to Public Sector Entreprises and their subsidiaries, if any;

(*b*) subject to such conditions as may be prescribed, accepting, discounting or re-discounting bills of exchange and promissory notes made, drawn, accepted or endorsed by Public Sector Enterprises;

(*c*) Subscribing to or purchasing stocks, shares, bonds, or debentures of the Public Sector Enterprises whether within or outside India, which may be notified by the Central Government in this behalf;

(*d*) guaranteeing deferred payments due from any Public Sector Enterprises;

(*e*) guaranteeing loans raised by Public Sector Enterprises which are floated in the public market;

(*f*) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder by public sector enterprises or the suppliers to any public sector enterprises whether in India or outside;

(*g*) providing consultancy and merchant banking services in or outside India to public sector enterprises;

(*h*) acting as the trustee for the holders of debentures or other securities on behalf of public sector enterprises;

(*i*) undertaking research and surveys for evaluating or dealing with marketing or investments and undertaking and carrying on techno-economic studies in connection with development of public sector industry;

(*j*) providing technical, legal, marketing and admnistrative assistance to any public sector enterprises; or any person for promotion, management or expansion of any public sector enterprises;

(*k*) planning, promoting and developing public sector industries to fill up gaps in the industrial structure in India;

(l) acting as agent of—

(i) the Central Government or of the Reserve Bank, or

(ii) such other Government or person as the Central Government in consultation with the Reserve Bank may authorise;

(*m*) performing functions entrusted to, or required of, the Public Sector Bank by this Act or by any other law for the time being in force;

(*n*) doing any other kind of business which the Central Government may authorise;

(*o*) generally doing such other acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act or any other law for the time being in force including sale or transfer of any of its assets.

Prohibited Business.

12. Public Sector Bank shall not extend any banking facilities to individuals, firms, business or industrial houses, other than public sector enterprises:

Provided that Public Sector Bank may accept and make loans, secured or otherwise, to the employees of public sector enterprises and provide other banking facilities to them.

Rehabilitation of sick public sector enterprises.

13. Public Sector Bank shall set up a Committee consisting of experts, from its own staff, Officers of public sector enterprises or others to review the cases of sick public sector enterprises and draw up rehabilitation packages for them.

Loans by Central Government.

14.(*1*) Public Sector Bank shall take over all the loans granted by the Central Government or State Governments to public sector enterprises and outstanding as on date to be notified by the Central Government and treat them as loans granted by the Public Sector Bank to the concerned public sector enterprises and decide about the terms and conditions, repayments schedule of such loans.

(*2*) The aggregate amount of such loans shall be deemed to be loan granted by the Central Government and State Governments to the Public Sector Bank.

(*3*) The terms and conditions of such loan including repayment schedule, shall be as may be settled between the Public Sector Bank and the Central Government and the concerned State Government:

(*4*) The Central Government may after due appropriation made by the Parliament by law, in this behalf, advance to Public Sector Bank, further loan, on such terms as may be agreed upon.

Borrowings and acceptance of deposits by Public Sector Bank.

15. (*1*) The Public Sector Bank may, for the purpose of carrying out its functions under this Act,

(*a*) issue and sell bonds and debentures with or without the guarantee of the Central Government;

(*b*) borrow money from Reserve Bank of India, Industrial Development Bank of India, nationalised banks, Financial Institutions, repayable on demand or on expiry of 90 days from the date on which the money is borrowed against the security of stocks, funds, securities in which a trustee is authorised to invest trust funds by any law for the time being in force in India;

(*c*) borrow money from any other authority, organisation or institution, in India or abroad, as may be generally or specially approved by the Central Government.

(2) The Central Government on a request being made by the Public Sector Bank may guarantee bonds and debentures by that bank as to repayment of principal and payment of interest at such rate as may be fixed by the Government.

Loans in foreign currency.

7 of 1947.

16. (*1*) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1947 or in any other enactment for the time being in force relating to foreign exchange, the Public Sector Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or otherwise.

(2) The Central Government may, where necessary, guarantee any loan taken by the Public Sector Bank under sub-section (*1*) or any part thereof as to the repayment of principal and the payment of interest and other incidental charges.

(*3*) All loans and advances granted by the Public Sector Bank out of foreign currency borrowed under sub-section (*1*) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing at the time of repayment of such loan or advance.

(*4*) Any loss or profit in connection with any borrowing of foreign currency under sub-section (*1*) for the purpose of granting loans and advances under this Act or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange, shall be borne by Public Sector Bank, in respect of normal fluctuations in foreign exchange.

Investments.

17. (*1*) Public Sector Bank shall invest all its surplus funds in Government securities or other approved trustee securities or special deposit with Reserve Bank of India.

(2) Public Sector Bank may raise loans or overdrafts against the securities from RBI on such terms and conditions as may be agreed upon.

Interest on deposits/ loans.

18. Public Sector Bank shall, having regard to guidelines or directives of Reserve Bank of India decide from time-to-time, rates of interest on deposits received by it or on moneys lent by it.

Grants and donations to Public Sector Bank.

19. The Public Sector Bank may receive gifts, grants, donations or benefactions from Government or any other source.

CHAPTER V

DEVELOPMENT ASSISTANCE FUND

Establishment Development Assistance Fund.

20. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, the Public Sector Bank shall establish a special fund to be called the Development Assistance Fund.

Credits to Development Assistance Fund.

21. To the Development Assistance Fund established under section 2 shall be credited—

(*a*) all profits of Public Sector Bank during first ten years of its operations transferred in accordance with provisions of section 27;

(*b*) all amounts received for the purposes of that fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;

(*c*) repayments or recoveries in respect of loans, advances or other facilities granted from the fund; and

(*d*) income or profits from investments made from the fund.

Utilisation of Development Assistance Fund.

22. (*1*) Where the Public Sector Bank considers it necessary or desirable so to do, it may, subject to such conditions, as may be prescribed by the Board generally or specially in each case, make available funds to weak or sick public sector enterprises at such subsidised rate of interest or free of interest and on such repayment terms as the Committee constituted in pursuance of section 13 may recommend.

(*2*) For the removal of doubts it is hereby declared that nothing contained in this section shall be deemed to preclude the Public Sector Bank from granting any loan or advance to any weak or sick public sector enterprise from the general fund.

Accounts and audit of Development Assistance Fund.

23.(*1*) The balance-sheet and accounts of the Development Assistance Fund shall be prepared in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the fund to be closed and balanced as on the 30th day of June each year or such other date, as the Central Government may, by notification in the official Gazette, appoint:

Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.

(*3*) The fund shall be audited by one or more auditors appointed by the Central Government under section 28 who shall make a separate report thereon.

(*4*) The provisions of sub-sections (*2*), (*3*), (*4*) and (*6*) of section 28 shall so far as may be, apply in relation to the audit of the Development Assistance Fund.

(*5*) The Public Sector Bank shall furnish to the Central Government within four months from the date on which the accounts of the fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors report and a report on the operation of the fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

Liquidation of Development Assistance Fund.

24. The Development Assistance Fund shall not be closed or wound up save by order of the Central Government and in such manner as that Government may direct.

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

General Fund.

25. All receipts of the Public Sector Bank other than those which are to be credited to the Development assistance Fund under this Act shall be credited to a fund to be called the

General Fund and all payments by the Development Bank, other than those which are to be debited to the Development Assistance Fund, shall be made out of the General Fund.

Preparation of accounts and balance-sheets.

26. (*1*) The balance-sheet and accounts of the Public Sector Bank shall be prepared in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the Development Bank to be closed and balanced as on the 30th day of June each year or such other date, as the Central Government may, by notification in the Official Gazette, appoint:

Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.

Disposal of profits accruing to General Fund.

27. (*1*) The Public Sector Bank may establish a reserve fund to which may be transferred such sums as that bank may deem fit out of the annual profits accruing to the General Fund.

(*2*) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Development Bank shall dispose of the balance of the net profits by Transfer to Development Assistance Fund for the first ten years of its operations by declaring dividend on shares as may be decided by the Board.

Audit.

28. (*1*) The accounts of the Public Sector Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

1 of 1956

(*2*) The auditors shall be supplied with a copy of the annual balance-sheet of the Public Sector Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Public Sector Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Public Sector Bank.

(*3*) The auditors may, in relation to such accounts, examine any director or any Officer or other employee of the Public Sector Bank and shall be entitled to require from the Board or officers or other employees of the Public Sector Bank such information and explanation as they may think necessary for the performance of their duties.

(*4*) The auditors shall make a report to the Public Sector Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and a fair view of the State of affairs of the Public Sector Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Public Sector Bank whether it has been given and whether it is satisfactory.

(*5*) The Public Sector Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors report and a report of the working of the Public Sector Bank during the relevant year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(*6*) Without prejudice to anything contained in the preceding sub-sections, the Central Government may at any time appoint the Comptroller and Auditor-General of India, to examine and report upon the accounts of the Public Sector Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Public Sector Bank to the Comptroller and Auditor-General of India.

CHAPTER VII

STAFF

Staff of Public Sector Bank.

29. (*1*) The Public Sector Bank may appoint such number of officers and employees as it considers necessary for desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(*2*) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Public Sector Bank to utilise and for the Reserve Bank and any other nationalised Bank to make available to Public Sector Bank the services of, such staff of the Banks on such terms and conditions as may be agreed upon between the Public Sector Bank and the Reserve Bank and Nationalised Banks.

CHAPTER VIII

MISCELLANEOUS

Delegation of Powers.

30. The Board may, by general or special order, delegate to any committee of directors constituted under section 8 or to any director or to any officer or other employee of the Public Sector Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Returns.

31. The Public Sector Bank shall furnish, from time to time to the Central Government and the Reserve Bank of India such returns as the Central Government or, as the case may be, the Reserve Bank of India, may require.

Obligation as to fidelity and secrecy.

32. (*1*) The Public Sector Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Public Sector Bank to divulge such information.

(*2*) The Public Sector Bank may, for the purpose of the efficient discharge of its functions under this Act, collect from or furnish to the Central Government, the State Bank, any subsidiary bank, nationalised bank or other scheduled bank, State Co-operative Bank, State Financial Corporation or such other financial institution, as may be notified by the Central Government in this behalf, credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation—For the purpose of this sub-section, the expression "credit information", shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934 subject to the modification that "Banking company" referred to therein shall mean the State Bank, any subsidiary bank, nationalised bank or other scheduled bank, State Co-operative Bank, State Financial Corporation or other financial institution as aforesaid. 2 of 1934

(*2*) Every director, member of a committee, auditor or officer or other employee of the Public Sector Bank or of the Reserve Bank or nationalised Banks, whose services are utilised by the Public Sector Bank under the provisions of this act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

Defects in appointments not to invalidate acts, etc.

33. (*1*) No act or proceeding of the Board or of any committee of the Public Sector Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

(*2*) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

Arrangement with Public Sector Bank on appointment of directors to prevail.

34. (*1*) Where by arrangement entered into by the Public Sector Bank with any Public Sector enterprise provides for the appointment by the Public Sector Bank of one or more directors of such Public Sector enterprise, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956 or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the Public Sector enterprise and any provision regarding share qualification, age-limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Public Sector Bank in pursuance of the arrangement as aforesaid.

10 of 1956.

(*2*) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the Public Sector Bank and may be removed or substituted by any person by order in writing of the Public Sector Bank;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

Indemnity of directors.

35. (*1*) Every director shall be indemnified by the Public Sector Bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(*2*) A director shall not be responsible for any other director or for any officer or other employee of the Public Sector Bank or for any loss or expenses resulting to the Public Sector Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Public Sector Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Public Sector Bank or anything done in good faith in the execution of the duties of his office or in relation thereto.

Protection of action taken under this Act.

36. No suit or other legal proceeding shall lie against the Public Sector Bank or any director or any officer or other employee of the Public Sector Bank or any other person authorised by the Public Sector Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

Act 18 of 1891 to apply in relation to Public Sector Bank.

37. The Bankers' Book Evidence Act, 1891 shall apply in relation to the Public Sector Bank as if it were a bank as defined in section 2 of that Act.

Act 10 of 1949 not to apply to Public Sector Bank.

38. Nothing contained in the Banking Regulation Act, 1949 except section 34A and section 36AD thereof, shall apply to the Public Sector Bank.

Act 43 of 1961 and Act 14 of 1963 not to apply to Public Sector Bank.

39. Notwithstanding anything to the contrary contained in the Income-Tax Act, 1961, the Super Profits Tax Act, 1963 or in any other enactment for the time being in force relating to income-tax, super-tax or super profits tax, or any other tax on income, profits or gains, the Public Sector Bank shall not be liable to pay income-tax, super-tax, super profits tax or any other tax in respect of—

(*a*) any income, profits or gains accruing or arising to the Development Assistance Fund or any amount received in that fund; and

(*b*) any income, profits or gains derived or any amount received by the Public Sector Bank.

Liquidation of Public Sector Bank.

40. No provision of law relating to the winding up of companies or corporations shall apply to the Public Sector Bank and the Public Sector Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Power to make regulations.

41. (*1*) The Board with the previous approval of the Central Government, may, by notification in the Official Gazette, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(*b*) the functions of the Executive Committee;

(*c*) the fees and allowances that may be paid to the directors and the members of a committee;

(*d*) the conditions which the Public Sector Bank may impose in granting loans or advances or entering into any other arrangements;

(*e*) the conditions on which the Public Sector Bank may accept, discount or rediscount bills of exchange or promissory notes;

(*f*) the investment of the amounts in the Development Assistance Fund or the General Fund which are not for the time being required for the transaction of business;

(*g*) the form and manner in which the balance-sheets and the accounts of the Development Assistance Fund and the Public Sector Bank shall be prepared;

(*h*) the forms of returns and statements required under this Act;

(*i*) the duties and conduct, salaries, allowances and conditions of service of officers and other employees of the Public Sector Bank;

(*j*) the establishment and maintenance of provident or other superannuation benefit funds for Officers and other employees of the Public Sector Bank;

(*k*) generally, the efficient conduct of the affairs of the Development Bank; and

(*l*) any other matter which is to be, or may be, prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Public Sector Bank; and any regulation so made may be altered and rescinded by the Board in the exercise of its powers under this Act.

(4) Any Regulation made by Reserve Bank of India in pursuance of sub-section (3) or any Regulation made by the Board shall have effect from such date as may be prescribed.

(5) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

Power to remove difficulty.

42. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty.

THE SCHEDULE

(Section 31)

DECLARATION OF FIDELITY AND SECRECY

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, officer or other employee (as the case may be) of the Public Sector Enterprises Development Bank of India and which properly relate to the office or position held by me in the said Public Sector Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to affairs of the Public Sector Enterprises Development Bank of India or to the affairs of any person having any dealing with the said Public Sector Enterprises Develpment Bank of India nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Public Sector Enterprises Development Bank of India and relating to the business of the said Public Sector Bank or the business of any person having any dealing with the said Public Sector Bank.

Signed before me (Signature)

STATEMENT OF OBJECTS AND REASONS

Public sector enterprises need specialised and comprehensive banking facilities. Developmental aspect of Public Sector enterprises has to be kept in view, in assessing the needs, appraising projects and schemes and providing funds for the same. The Commercial Banks, in recent times are reluctant to take into account, the developmental needs of public sector enterprises.

The government has as a matter of policy discontinued budgetary support to public sector enterprises. The Government has also stopped extending guarantees to loans by the Commercial Banks to the public sector enterprises. It is therefore becoming extremely difficult for Public Sector Enterprises to obtain timely financial assistance to the extent required. In result several projects are held up, adding to the losses of Public Sector Enterprises.

A number of public sector enterprises command huge resources. If these resources are pooled, needy public sector enterprises can get funds when required. Particularly, schemes for rehabilitation of sick and weak public sector enterprises can be taken up and executed fast, through such pooling of resources.

With this objective, it is proposed to establish a Public Sector Enterprises Development Bank.

Hence the Bill.

NEW DELHI;
June 16, 1997.

GEORGE FERNANDES

BILL NO. 97 OF 1997

A Bill further to amend the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

BE it enacted by parliament in the Forty-eighth Year of the Republic of India as folows:—

Short title and commencement.

1. (*1*) This Act may be called the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 1997.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. In section 1 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:— 51 of 1993.

"(4) The provisions of this Act shall, without exception, apply where the amount of debt due to any bank or financial instutition or to a consortium of banks or financial institutions exceeds ten lakh rupees and to such other debts, below ten lakh rupees, as the Central Government may, by notification, specify.".

3. After Chapter III of the principal Act, the following Chapters and sections thereunder shall be inserted, namely:— Insertion of new Chapters III A and III B.

"CHAPTER IIIA

OBLIGATION ON BANKS AND FINANCIAL INSTITUTIONS TO MAKE APPLICATIONS FOR RECOVERY OF DEBT TO THE TRIBUNAL

18A. In every case of debt which is irregular due to inadequacy of security or is overdue or where the borrower has committed default or breach of any term or the condition governing the debt or where the bank or the financial institution considers it expedient to recall the amount of debt for any reason whatsoever, the bank or the financial institution, as the case may be, shall cause a notice to be issued to every debtor and guarantor, if any, calling upon them to repay the debt together with interest thereon, within a period of thirty days from the date of issue of such notice. Notice by bank or financial institution for recovery of debt.

18B. In every case of debt remaining unpaid ninety days after the date of issue of notice for payment of debt under section 18A, it shall be incumbent upon the bank or the financial institution, as the case may be, to make an application to the appropriate Tribunal for recovery of the debt. Application to the Tribunal in case of non-recovery of debt.

CHAPTER IIIB

WRITE-OFF OR COMPROMISE TO BE SUBJECT TO APPROVAL OF TRIBUNAL

18C.(1) Where any bank or financial institution is of the opinion that the debt is not recoverable fully, the bank or the financial institution, as the case may be, shall make an application to the appropriate Tribunal for writing-off the debt or any portion thereof, or for accepting in satisfaction of the debt a lesser amount, or for waiver of part or whole of the principal debt or interest due thereon. Writing-off of debt, etc.

(*2*) On receipt of an application under sub-section (1), the Tribunal shall cause a notice to be published in a local daily newspaper, inviting objections, if any, to the proposal contained in the application, within such time as the Tribunal may specify but which shall not exceed thirty days.

(*3*) On consideration of the proposal contained in the application and the objections received, if any, the Tribunal shall pass an order approving or disapproving the proposal or modifying the proposal, as the Tribunal may consider appropriate.

(*4*) Where the Tribunal disapproves the proposal, the application shall be treated as an application made under section 19 for the purpose of recovery of debt and shall be dealt with accordingly.".

4. In section 19 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 19.

"(1A) The bank or a financial institution may at any time, before an order is passed by the Tribunal under sub-section (4) make an application to the Tribunal for attachment of any property and assets of the defendant and the Tribunal shall, on every such application, have the power to make an interim order against the defendant attaching his assets or property or restraining him from disposing off or alienating the assets or property pending further orders of the Tribunal.".

STATEMENT OF OBJECTS AND REASONS

The bad and doubtful debt logged up by the banks in the country has reached a scandalous figure. The irrgularities committed by the lending banks and the default or breach of terms by the borrowers has contributed to this situation. Some amendments to the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, are needed to deal with this problem.

The Bill seeks to achieve the above objective.

NEW DELHI; GEORGE FERNANDES
June 16, 1997.

BILL No. 95 OF 1997.

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Representation of the People (Amendment) Act, 1997. Short title.

43 of 1951. **2.** After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:— Insertion of new section 8B.

"8B. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, any person, who has been convicted of indulging in any criminal activities or supporting or promoting the cause of any criminal activities or abetting any criminal activities or, who is convicted of promoting or supporting or abetting those persons who indulge in anti-national activities, shall be disqualified. Disqualification on ground of criminal conviction, etc.

Explanation.— For the purposes of this section "criminal activities" means and includes such criminal activity the punishment for which is not less than six months.

(*2*) If any political party knowingly fields any such person, as is referred to in sub-section (1), to contest election, the recognition or registration, as the case may be, of that political party shall be withdrawn by the Election Commission.

(3) **The Election Commission shall cause to investigate whether any of the candidates who are contesting the election belongs to a category of persons referred to in sub-section (1).".**

STATEMENT OF OBJECTS AND REASONS

In the recent years it has been observed that candidates with criminal background, who themselves indulge or support persons involved in anti-national activities, have been contesting elections both to Parliament and State Legislatures. Due to this, the whole political system has been criminalised. These candidates belong to certain political parties, which, without being aware of their criminal background, give tickets to them for contesting elections to Parliament and State Assemblies. Money power, muscle power and corrupt means play important role.

It is, therefore, proposed that no candidate with a criminal background should be allowed to contest any election. Any party, which knowingly gives tickets to such candidates, should be de-registered/de-recognised. Such a step would cleanse the political system of its evils.

Hence this Bill.

NEW DELHI;
June 16, 1997.

PRABHU DAYAL KATHERIA

BILL No. 90 OF 1997

A Bill further to amend the Indian Penal Code.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1997. Short title.

45 of 1860

2. In sub-section (2) of section 376 of Indian Penal Code,— Amendment of Section 376.

(*i*) for the words "ten years", the words "twenty years" shall be substituted; and

(*ii*) the proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Several atrocities are being committed against women. It has been noticed that many Government officers who indulge in the act of molestation and rape manage to escape from the grip of law by taking advantage of their post and official position and also due to the lack of evidence. At present, a provision of ten years imprisonment has been made for such type of crimes. The purpose of this Bill is to enhance the period of imprisonment from ten years to twenty years to make the punishment more stringent.

Hence this Bill.

NEW DELHI;
June 16, 1997.

PRABHU DAYAL KATHERIA

BILL NO. 104 OF 1997

A Bill to provide for scrutiny of assets of Ministers, Members of Parliament and Public Servants.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Scrutiny of Assets of Ministers, Members of Parliament and Public Servants Act, 1997. Short title.

2. In this Act, unless the context otherwise requires:— Definitions.

(*i*) "asset" includes all properties, both movable and immovable, held by the Ministers or by the Members of Parliament or by the Public Servants or by their dependents, legally or in *benami* within the country and/or abroad;

(*ii*) "Chairman" means the Chairman of the Council of the States;

(*iii*) "Public Servant" means and includes a person appointed to public services and posts in connection with the affairs of the Union and who draws a basic salary of rupees five thousand or more per month;

(*iv*) "dependent" includes spouse, parents, sons and unmarried daughters;

(*v*) "Member of Parliament" means Member of the Council of States or of the House of the People, as the case may be;

(*vi*) "Minister" means Cabinet Minister of the Union Government and includes the Prime Minister, Minister of State and Deputy Minister;

(*vii*) "prescribed" means prescribed by rules made under this Act; and

(*viii*) "Speaker" means the Speaker of the House of People.

Declaration of assets by Ministers and Members of Parliament.

3. (*1*) Every Minister shall, within one month of his appointment as such Minister, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents, in such manner and form, as may be prescribed:

Provided that where the Minister is not a Member of either House of Parliament, he shall submit a return of all the assets possessed by him and his dependents to the Speaker within one month of the swearing in as such Minister.

(2) Every Member of Parliament shall within one month of the date of his election as such member, submit to the Speaker or the Chairman, as the case may be, a return of all the assets possessed by him and his dependents in such manner and form, as may be prescribed.

Declaration of Assets by Public Servants.

4. Every Public Servant shall, within a period of one month from the coming into force of this Act, furnish the particulars of all the assets possessed by him and his dependents to the prescribed authority, in such manner and form, as may be prescribed.

Submission of annual returns.

5. (*1*) It shall be incumbent on the part of every Minister and every Member of Parliament to submit a return of the assets held by him and his dependents, within one month of the beginning of the next financial year, to the Speaker or the Chairman, as the case may be.

(2) Every Public Servant shall, throughout the term of his office, submit annual returns of the assets held or acquired by him and any of his dependents, within one month of the beginning of the next financial year, to such authority of the Union Government, as may be prescribed.

Returns filed by Ministers and Members of Parliament to be made available to the public.

6. A copy of the returns filed by Ministers and Members of Parliament shall be made available to any member of public on payment of such fee, as may be prescribed.

Returns filed by the Public servants to be laid before the Houses of Parliament.

7. (*1*) A copy of the returns filed by Public Servants under sub-section (2) of section 5 shall be submitted to the President who shall cause the same to be laid before each House of Parliament.

(2) A copy of all the declarations made by the Public Servants under this Act shall be made available to any member of public on payment of such fee, as may be prescribed.

Announcement of names of Ministers and Members of Parliament who fail to submit returns.

8. The Speaker or the Chairman, as the case may be, may announce the name of the Minister or Member of Parliament who fails to submit the returns according to the provisions of this Act.

9. Any Public Servant who fails to submit the returns according to the provisions of this Act shall be subject to such action, as may be prescribed. Action against public servants who fail to submit returns.

10. The Central Government shall constitute a Committee comprising of a former Judge of the Supreme Court as its Chairman and four other Members. Constitution of a Committee.

11. The Committee shall examine the assets held by the Ministers, the Members of Parliament and the Public Servants within the country and abroad and the contributions received by them or their family members from abroad. Examination of assets by the Committee.

12. All the illegal assets or contributions possessed/received by a Minister, Member of Parliament and a Public Servant shall be seized and transferred to the Government treasury. Seizure and confiscation of illegal assets.

13. Any Minister or a Member of Parliament or Public Servant found to possess illegal assets or received illegal contributions, shall be punishable with imprisonment for a term which shall not be less than ten years. Punishment.

14. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(i) the form in which the declaration of assets shall be furnished;

(ii) the manner in which the declaration shall be scrutinised;

(iii) the action to be taken in case of declaration of assets furnished by a Member of Parliament or by Minister or by a Public Servant is found false;

(iv) the action to be taken in case of delayed declaration of assets by Public Servants; and

(v) any other matter that is necessary to carry out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The last few years have witnessed the increase in political corruption. The involvement of names of Ministers and Legislators, not only at the Central level but also at the State levels, in corruption cases, has not only brought disgrace and discredit to the esteemed organisations like Parliament, Central Executive, State Legislatures and State Governments but worst of all, has forced people to doubt the integrity and honesty, the basic tenets of the institution of democracy, of people associated with the political system. The faith of public in the institution of democracy is on the decline. To restore public faith in the political system, it is necessary that Ministers and Members of Parliament declare their assets regularly. Such a step will not only prohibit the misuse of political power but will also set an example for public morality which can be emulated by others. The Members of Parliament are the representatives of the people. They should carry clean image before the public. Going by the prevailing political culture in India and the moral degeneracy that has of late set in our public life, there is a need for a law that makes periodic declaration of assets by all Ministers and Members of Parliament compulsory.

The Public servants have also amassed assets disproportionate to the known sources of their income. Very often, such assets are held in ***benami*** or in the name of their family members. The arm of law does not extend to them in many cases. The departmental requirement of furnishing returns of property by public servants is neither adequate nor effective. In any case, once a person chooses to work as a public servant, his assets should be known to the Legislature and through them to the public whom the public servants are supposed to serve. The Bill, therefore, provides for annual declaration of assets held or acquired by Ministers, Members of Parliament and public servants as well as by their dependents in India or abroad in order to let the people know that their representatives in Parliament and public servants do not have assets disproportionate to their known sources of income.

Hence this Bill.

NEW DELHI;
June 16, 1997.

PRABHU DAYAL KATHERIA

BILL NO. 91 OF 1997

A Bill to amend the Prevention of Insults to National Honour Act, 1971.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 1997.

(2) It extends to the whole of India.

69 of 1971.

Insertion of new Section 4.

2. After section 3 of the Prevention of Insults to National Honour Act, 1971, the following section shall be inserted, namely:—

Insults to national leaders, etc.

"4. Whoever intentionally,—

(*i*) hoists the national flag of any other country atop any Government building or any individual house or at any public place;

(*ii*) passes disparaging and insulting remarks against any national leader in any public place or public view or publishes or causes to be published such remarks through press or any other media;

(*iii*) burns, distorts mutilates, defaces, defiles, disfigures, destroys, tramples upon the statue of any national leader installed in a public place,

shall be punished with imprisonment for a term which may extend to one year or with fine, or with both.

Explanation.—For the purposes of this section, the expression "national leader" means any leader or martyr who inspired the national struggle for freedom of the country.".

STATEMENT OF OBJECTS AND REASONS

Now when we are celebrating the fiftieth anniversary of our Independence, we are also witnessing the denigration and utterance of highly derogatory and disparaging remarks about our national leaders who inspired the country to freedom, after making enormous sacrifices and even laying down their lives for the cause. This act of derogation to these leaders is done through public statements and the press and electronic media. Even the statues and images of such national heroes and martyrs installed in prominent public places are disfigured, damaged and even dismantled and removed with impunity. This not only constitutes denigration and insult to individual leaders concerned but also insult to the nation.

It is, therefore, proposed to amend the Prevention of Insults to National Honour Act, 1971, by enlarging its scope to include such denigration of national leaders and to prescribe appropriate punishment for such insult.

Hence this Bill.

NEW DELHI;
June 16, 1997.

R. SAMBASIVA RAO

BILL NO. 100 OF 1997

A Bill to prohibit extravagant and wasteful expenditure on marriages and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prohibition of Extravagant Expenditure on Marriages Act, 1997.

(*2*) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "expenditure on marriage" includes expenditure incurred during marriage celebrations on invitation cards, decoration, tented pandals, illumination, fireworks, luncheon, dinner, clothes, ornaments, gifts, hiring of a *baraat ghar,* banquet hall or hotel of such other places for celebrating marriages;

(c) "prescribed" means prescribed by rules made under this Act.

Prohibition of extravagant expenditure on marriages.

3. (*1*) Notwithstanding anything in any custom of any community, tribe or religion, all the marriages, shall be solemnized in a simple ceremony without any extravagant expenditure on such marriage.

(*2*) The appropriate Government shall fix the limit of guests and relatives who may be invited to attend the solemnization of a marriage or reception held thereafter.

(*3*) The appropriate Government shall fix the limit of expenditure which can be incurred on a marriage.

Guidelines to be framed by the appropriate Government.

4. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall prescribe necessary guidelines for carrying out the purposes of this Act.

Punishment.

5. Any person who contravenes the provisions of section 3 shall be liable for imprisonment for a term which may extend to five years and with fine which may extend to one lakh rupees.

Removal of difficulties.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty, and any such order or direction shall be final.

Act not to be in derogation of any law.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Nowadays marriages are celebrated with pomp and show. People spend lavishly on such celebrations. Lakhs of rupees are spent on shamianas and decorations followed by sumptuous feasts. In addition to all these things, substantial cash and costly gifts are exchanged. People use these occasions to spend their black money. It is unfortunate that poor people are also affected by this pomp and show. This situation is creating unrest among those who have no money to spend lavishly.

Since extravaganza during marriages has become the order of the day, those who are poor become heavily indebted or are being forced to adopt corrupt practices to earn money. As such corruption in all walks of life has acquired alarming proportions. It is very harmful for the progress of the nation.

It is a fact that even after spending lakhs of rupees on marriages people are not happy, leading to bride burning, marital discords. Parents try to earn more money through marriage of their sons.

This ugly tendency has to be checked and deterrent punishment has to be provided so that wasteful expenditure is curtailed on auspicious occasions like marriages. This will certainly go a long way in cleansing our society from corruption.

Hence this Bill.

NEW DELHI;
June 16, 1997.

R. SAMBASIVA RAO

BILL NO. 105 OF 1997

A Bill to provide for disclosure of assets by Ministers, Members of Parliament and Civil Servants.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Disclosure of Assets by Ministers, Members of Parliament and Civil Servants Act, 1997.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "assets" includes all properties, both movable and immovable, held by the Ministers or by the Members of Parliament or by the Civil Servants or by their dependents, legally or in ***benami*** within the country/or abroad;

(b) "Chairman" means the Chairman of the Council of States;

(c) "dependent" includes spouse, parents, sons and unmarried daughters;

(d) "Member of Parliament" means Member of the Council of States or of the House of the People, as the case may be;

(e) "Minister" means any Minister of the Union Government including the Prime Minister and their Parliamentary Secretaries;

(f) "Civil Servant" means and includes a person appointed to public services and posts in connection with the affairs of the Union;

(g) "prescribed" means prescribed by rules made under this Act; and

(h) "Speaker" means the Speaker of the House of the People.

Submission of statement of assets by Ministers and Members of Parliament.

3. (*1*) Every Minister shall, within one month of his appointment as such Minister, submit to the Speaker or the Chairman, as the case may be, a statement of all the assets possessed by him and his dependents, in such manner and form, as may be prescribed:

Provided that where the Minister is not a Member of either House of Parliament, he shall submit a statement of all the assets possessed by him and his dependents to the Speaker within one month of the swearing in as such Minister.

(*2*) Every Member of Parliament shall, within one month of the date of his election as such member, submit to the Speaker or the Chairman, as the case may be, a statement of all the assets possessed by him and his dependents in such manner and form, as may be prescribed.

Disclosure of assets by civil servants.

4. Every Civil Servant shall, within a period of one month from the coming into force of this Act, furnish the particulars of all the assets possessed by him and his dependents to the prescribed authority, in such manner and form, as may be prescribed.

Submission of statement of assets.

5. (*1*) It shall be incumbent on the part of every Minister and every Member of Parliament to submit a statement of the assets held by him and his dependents, within one month of the beginning of the next financial year falling within his tenure as a Minister/Member of Parliament, to the Speaker or the Chairman, as the case may be.

(*2*) Every Civil Servant shall, throughout the term of his office, submit annual statements of the assets held or acquired by him and any of his dependents, within one month of the beginning of the next financial year, to such authority of the Union Government, as may be prescribed.

Statement filed by Ministers and Members of Parliament to be made available to the public.

6. A copy of the statement filed by Ministers and Members of Parliament under section 3 and sub-section (*1*) of section 5 shall be made available to any citizen on payment of such fee, as may be prescribed.

Statement filed by Civil servant to be laid before Houses of Parliament.

7. (*1*) A copy of the statement filed by civil servants under section 4 and sub-section (*2*) of section 5 shall be submitted to the President who shall cause the same to be laid before each House of Parliament.

(*2*) A copy of all the statement made by the civil servants under this Act shall be made available to any citizen on payment of such fee, as may be prescribed.

Announcement of names of Ministers and Members of Parliament who fail to submit statement

8. The Speaker or the Chairman, as the case may be, may announce the name of the Minister or the Member of Parliament who fails to submit the statement according to the provisions of this Act, in such manner, as may be prescribed.

Action against civil servant who fails to submit the statement.

9. Any civil servant who fails to submit the statement according to the provisions of this Act shall be subject to such action, as may be prescribed.

Committee to suggest action for possessing illegal assets.

10. If any Minister, Member of Parliament, Civil Servant is found to have in possession of more assets than the known sources of his income, the case shall be referred to a Committee consisting of the Chairman of the Council of States, the Prime Minister, the Speaker of the House of the People and Leaders of Opposition

of both Houses of Parliament and such action as is recommended by the Committee shall be taken against such Minister or Member of Parliament or Civil Servant in accordance with the findings of the Committee.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(i) the form in which the statement regarding assets shall be furnished,

(ii) the manner in which the assets disclosure statement shall be scrutinised;

(iii) the action which may be taken in case of disclosure of assets by a Member of Parliament or by a Minister or by a Civil Servant is proved to be false;

(iv) the action to be taken in case of delayed disclosure of assets by civil servants; and

(v) any other matter that is necessary to carry out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The last few years have witnessed large number of financial scandals and scams which have shaken people's confidence in democracy. Today politics is money based. This has resulted in unholy alliances between public men and public servants with criminals and smugglers. If this nexus is to be broken, it is necessary to establish honesty and integrity in the governance of the nation by making all Ministers, Members of Parliament and Civil servants accountable in respect of their assets. It is, therefore, necessary to make compulsory for them to disclose their assets every year.

The Bill seeks to achieve this objective.

NEW DELHI;
June 17, 1997.

G.A. CHARAN REDDY

BILL NO. 82 OF 1997

A Bill to provide for the establishment of a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court of Andhra Pradesh (Establishment of a permanent Bench at Visakhapatnam) Act, 1997.

Establishment of a permanent Bench of High Court of Andhra Pradesh at Visakhapatnam.

2. There shall be established a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam and such number of judges of the High Court of Andhra Pradesh, being not less than five in number as the Chief Justice of the High Court may from time to time nominate, shall sit at Visakhapatnam in order to exercise the jurisdiction and power for the time being vested in the High Court in respect of cases arising in the districts of Visakhapatnam, Vizianagram, Srikakulam, Bobbili, Rajamundry, Kakinada, Ellore, Narsapore and Amlapuram.

STATEMENT OF OBJECTS AND REASONS

Andhra Pradesh is a big State. The coastal regions are far away from Hyderabad. The people are facing hardship in filing cases in the High Court located at Hyderabad. There has been a persistent demand for the setting up of a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam, the densely populated port city with many industrial set ups. It is a time consuming and costly affair for coastal people to travel long distance in connection with their cases at Hyderabad. In the interest of speedy and cheap justice and convenience of the litigant public, it is necessary to establish a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam.

Hence this Bill.

NEW DELHI;
June 17, 1997.

M. JAGANNATH

BILL NO. 96 OF 1997.

A Bill to provide for the constitution of special courts to deal exclusively with atrocities committed against women and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Special Courts for Women Act, 1997.

(*2*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to States, the State Governments and in relation to Union territories, the Central Government;

(b) "special court" means a court to deal exclusively with matters relating to atrocities or offences committed against women and for matters incidental thereto;

(c) "prescribed" means prescribed by rules made under this Act.

3. (*1*) The appropriate Government shall set up sufficient number of special courts to deal exclusively with matters arising out of atrocities or offences committed against women. Establishment of special courts for women.

(*2*) Each special court shall consist of a Chief Judge and such number of other Judges as the appropriate Government may deem fit.

(*3*) Every special court shall be presided over by the Chief Judge.

4. (*1*) A person shall not be qualified for appointment as the Chief Judge unless he— Qualifications for appointment as Chief Judge and other Judges.

(a) is, or has been, a District Judge; or

(b) has, for at least two years, held the office of the Judge of the special court;

and has, for at least five years, been associated with women's cause;

(*2*) A person shall not be qualified for appointment as a Judge unless he,—

(a) is, or has been, a Judicial Magistrate; or

(b) has, for a period of not less that five years, been practising law;

and has, for at least five years, been associated with women's cause.

(*3*) Every Chief Judge of a special court in a Union territory shall be appointed by the President.

(*4*) Every Chief Judge of a special court in a State shall be appointed by the Governor of the concerned State.

(*5*) Every other Judge of a special court shall be appointed by the appropriate Government.

(*6*) One-third of the total number of posts of Chief Judges and other Judges in a State shall be reserved for women.

5. (*1*) In the event of the occurance of any vacancy in the office of the Chief Judge of a special court by reason of his death, resignation or otherwise, the senior most Judge of that court shall act as the Chief Judge until the date on which a new Chief Judge, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office. Senior most Judge to act as Chief Judge or to discharge his functions in certain circumstances.

(*2*) When the Chief Judge is unable to discharge his functions owing to absence, illness or any other cause, the senior most Judge of that special court shall discharge the functions of the Chief Judge until the date on which Chief Judge resumes his duties.

6. Every Chief Judge and other Judges shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,— Term of office.

(a) in the case of the Chief Judge, the age of 65 years, and

(b) in the case of any other Judge, the age of 60 years,

whichever is earlier.

7. Every Chief Judge or a Judge may, by notice in writing under his hand addressed to the President in case he is a Chief Judge or a Judge of a special court in a Union territory or to the Governor, in case he is a Chief Judge or a Judge of a special court in a State resign from his office: Resignation and removal.

Provided that the Chief Judge or any other Judge shall, unless he is permitted by the President or the Governor, as the case may be, to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

Salary and allowances and other terms and conditions of service of Chief Judge and other Judges.

8. The salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chief Judge or a Judge of a special court shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chief Judge or a Judge of a special court shall be varied to his disadvantage after his appointment.

Financial and administrative powers of the Chief Judge.

9. Every Chief Judge shall exercise such financial and administrative powers over the special court as may be vested in him in such manner as may be prescribed.

Staff of the special court.

10. The appropriate Government shall determine the nature and categories of the officers and other employees required to assist a special court in the discharge of its functions.

Jurisdiction, powers and authority of Special courts.

11. Save as otherwise expressly provided in this Act, every special court shall exercise all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the concerned High Court and the Supreme Court) in relation to all matters of offences or atrocities committed against women under the Indian Penal Code or any other law for the time being in force.

Powers of Special courts.

12. Every special court constituted under this Act shall have powers of any other court for the purpose of holding any inquiry as are vested in a civil court under the Code of Civil Procedure, 1908 and under the Code of Criminal Procedure, 1973. 5 of 1908. 2 of 1974.

Exclusion of jurisdiction of courts except the concerned High Court and the Supreme Court.

13. On the date of coming into force of this Act, the jurisdiction, powers and authority in relation to any offences or crimes or atrocities committed against women, shall be exercisable by a special court and no other court (except the concerned High Court and the Supreme Court) shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such offences or crimes or atrocities committed against women.

Transfer of pending cases.

14. Every suit or other proceeding pending before any other court or any authority immediately before the date of coming into force of this Act being a suit or proceeding the cause of action wherein it is based is such that it would have been if it had arisen after such constitution, within the jurisdiction of a special such court, shall stand transferred on that date to such special court:

Provided that nothing contained in this section shall apply to a suit or other proceeding pending in a High Court or the Supreme Court.

Free legal aid to women.

15. The appropriate Government make necessary arrangements and provisions for free legal aid to women for meeting the cost of litigation in special courts.

Act to have over-riding effect.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to remove difficulties.

17. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(*2*) Every order may refer to this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

18. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

A number of atrocities and crimes are committed against women. Out of them only a few cases are reported to police and other authorities and out of those few cases only a very few cases come up before the court and it takes a very long time for settlement of those cases.

Women are the weaker section of the society and a special provision is essential in order to protect their interests. Since it takes a long time for the courts to decide cases, the culprits escape from the clutches of the law due to lapse of time and insufficient evidence.

At present, the offences against women are tried in the normal course alongwith other cases. In our country a large number of cases are pending in almost in all the courts. Therefore, there should be some arrangement by which the offences against women are tried speedily in order to bring the culprits to the books.

Therefore, the Bill seeks to provide for constitution of special courts to deal exclusively with offences against women.

Hence this Bill.

NEW DELHI;
June 24, 1997.

CHITTA BASU

1515/GI

BILL No. 94 OF 1997

A Bill to provide for measures to control population and for matters connected therewith.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Population Control Act, 1997.

Short title, extent, commencement and application.

(*2*) It extends to whole of India.

(*3*) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

(*4*) It shall apply to all citizens irrespective of their religion, race, caste, region and language.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means the Central Government in relation to Union territories and the State Government in relation to a State;

(b) "family" means both the husband and the wife;

(c) "prescribed" means prescribed by rules made under this Act.

Restriction on number of children in the family.

3. (*1*) No family, which has less than two children on the date of coming into force of this Act, shall have more than two living children.

(*2*) No family which has two or more than two living children on the date of coming into force of this Act, shall procreate another child after a period of one year of the coming into force of this Act.

Withdrawal of facilities to persons having more than two children.

4. Any family which violates the provisions of section 3 shall be deprived of or not extended such facilities as may be prescribed.

Provision for sterilization.

5. The appropriate Government shall make provision for facility of sterilization in all hospitals and dispensaries for persons who wish to undergo sterilization.

Incentives for small family.

6. The appropriate Government shall pay such amount as an incentive as may be prescribed to every family which has not more than two living children and either of the spouse in the family undergoes sterilization.

Power to make rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The population of our country was 33 crore in the year 1947. Today the population of our country is 96 crore. The progress in the economic and other fields made by our country is meaningless if population is not controlled immediately. The country may not progress unless the increase in population is halted urgently. The Bill seeks to provide for measures for controlling the increase in population.

Hence this Bill.

NEW DELHI;
June 24, 1997.

DHIRENDRA AGARWAL

S. GOPALAN,
Secretary-General.

Published by the Secretary-General, Rajya Sabha under rule 68 of the Rules of Procedure and Conduct of Business in the Rajya Sabha.